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United Nations

Report of the Committee on the Elimination of Racial Discrimination

Sixty-fourth session (23 February-12 March 2004)
Sixty-fifth session (2-20 August 2004)

General Assembly
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Fifty-ninth session
Supplement No. 18 (A/59/18)

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Note

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Letter of transmittal

20 August 2004

Sir,

It is with pleasure that I transmit the annual report of the Committee on the Elimination of Racial Discrimination.

The International Convention on the Elimination of All Forms of Racial Discrimination, which has now been ratified by 169 States, constitutes the normative basis upon which international efforts to eliminate racial discrimination should be built.

During the past year, the Committee continued with a significant workload in terms of the examination of States parties' reports (discussed in chapter III) in addition to other related activities. The Committee also examined the situation of several States parties under its early warning and urgent procedures (see chapter II). In order to continue its consideration of subjects of general interest, the Committee held a thematic discussion on discrimination against non-citizens at its sixty-fourth session and adopted a new general recommendation (XXX) on this issue (see chapter VIII). The Committee also decided to organize a thematic discussion on the prevention of genocide at its sixty-sixth session, to be held from 21 February to 11 March 2005.

As important as the Committee's contributions have been to date, there is obviously some room for improvement. At present, only 45 States parties (see annex I) have made the optional declaration recognizing the Committee's competence to receive communications under article 14 of the Convention and, as a consequence, the individual communications procedure is underutilized, as indeed is also the inter-State complaints procedure.

Furthermore, only 39 States parties have so far ratified the amendments to article 8 of the Convention adopted at the Fourteenth Meeting of States Parties (see annex I), despite repeated calls from the General Assembly to do so. These amendments provide, inter alia, for the financing of the Committee from the regular budget of the United Nations. The Committee appeals to States parties that have not yet done so to consider making the declaration under article 14 and ratifying the amendments to article 8 of the Convention.

The Committee remains committed to a continual process of reflection on and improvement of its working methods, with the aim of maximizing its effectiveness. In this connection, the Committee established a working group on early warning and urgent action procedures and appointed a coordinator on follow-up to its conclusions and recommendations (see chapter XII).

His Excellency Mr. Kofi Annan
Secretary-General of the United Nations
New York

At the present time, perhaps more than ever, there is a pressing need for the United Nations human rights bodies to ensure that their activities contribute to the harmonious and equitable coexistence of peoples and nations. In this sense, I wish to assure you once again, on behalf of all the members of the Committee, of our determination to continue working for the promotion of the implementation of the Convention and to support all activities that contribute to combating racism, racial discrimination and xenophobia throughout the world.

I have no doubt that the dedication and professionalism of the members of the Committee, as well as the pluralistic and multidisciplinary nature of their contributions, will ensure that the work of the Committee contributes significantly to the implementation of both the Convention and the follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in the years ahead.

Please accept, Sir, the assurances of my highest consideration.

(*Signed*): Mario Yutzis
Chairman
Committee on the Elimination
of Racial Discrimination

I. ORGANIZATIONAL AND RELATED MATTERS

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination

1. As at 20 August 2004, the closing date of the sixty-fifth session of the Committee on the Elimination of Racial Discrimination, there were 169 States parties to the International Convention on the Elimination of All Forms of Racial Discrimination, which was adopted by the General Assembly in resolution 2106A (XX) of 21 December 1965 and opened for signature and ratification in New York on 7 March 1966. The Convention entered into force on 4 January 1969 in accordance with the provisions of its article 19.

2. By the closing date of the sixty-fifth session, 45 of the 169 States parties to the Convention had made the declaration envisaged in article 14, paragraph 1, of the Convention. Article 14 of the Convention entered into force on 3 December 1982, following the deposit with the Secretary-General of the tenth declaration recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals who claim to be victims of a violation by the State party concerned of any of the rights set forth in the Convention. Lists of States parties to the Convention and of those which have made the declaration under article 14 are contained in annex I to the present report, as is a list of the 38 States parties that have accepted the amendments to the Convention adopted at the Fourteenth Meeting of States Parties, as at 20 August 2004.

B. Sessions and agendas

3. The Committee on the Elimination of Racial Discrimination held two regular sessions in 2004. The sixty-fourth (1613th to 1642nd meetings) and sixty-fifth (1643rd to 1672nd meetings) sessions were held at the United Nations Office at Geneva from 23 February to 12 March 2004 and from 2 to 20 August 2004 respectively.

4. The agendas of the sixty-fourth and sixty-fifth sessions, as adopted by the Committee, are reproduced in annex II.

C. Membership and attendance

5. The list of members of the Committee for 2004-2005 is as follows:

Name of member	Country of nationality	Term expires 19 January
Mr. Mahmoud ABOUL-NASR	Egypt	2006
Mr. Nourredine AMIR	Algeria	2006
Mr. Alexei S. AVTONOMOV	Russian Federation	2008
Mr. Ralph F. BOYD Jr.	United States of America	2008
Mr. José Francisco CALI TZAY	Guatemala	2008

Name of member	Country of nationality	Term expires 19 January
Mr. Régis de GOUTTES	France	2006
Mr. Kurt HERNDL	Austria	2006
Ms. Patricia Nozipho JANUARY-BARDILL	South Africa	2008
Mr. Morten KJAERUM	Denmark	2006
Mr. José A. LINDGREN ALVES	Brazil	2006
Mr. Raghavan Vasudevan PILLAI	India	2008
Mr. Agha SHAHI	Pakistan	2006
Mr. Linos Alexander SICILIANOS	Greece	2006
Mr. TANG Chengyuan	China	2008
Mr. Patrick THORNBERRY	United Kingdom of Great Britain and Northern Ireland	2006
Mr. Luis VALENCIA RODRÍGUEZ	Ecuador	2008
Mr. Mario Jorge YUTZIS	Argentina	2008

6. All members of the Committee attended the sixty-fourth and sixty-fifth sessions.

D. Officers of the Committee

7. At its 1613th meeting (sixty-fourth session), on 23 February 2004 the Committee elected the Chairperson, Vice-Chairpersons and Rapporteur as listed below in accordance with article 10, paragraph 2, of the Convention, for the terms indicated in brackets.

Chairperson:	Mr. Mario Yutzis (2004-2006)
Vice-Chairpersons:	Ms. Patricia Nozipho January-Bardill (2004-2006) Mr. Raghavan Vasudevan Pillai (2004-2006) Mr. Alexander Linos Sicilianos (2004-2006)
Rapporteur:	Mr. Patrick Thornberry (2004-2006)

E. Cooperation with the International Labour Organization, the Office of the United Nations High Commissioner for Refugees, the United Nations Educational, Scientific and Cultural Organization, the International Law Commission and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living

8. In accordance with Committee decision 2 (VI) of 21 August 1972 concerning cooperation with the International Labour Organization (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO),[1] both organizations were invited to attend the sessions of the Committee. Consistent with the Committee's recent practice, the Office of the United Nations High Commissioner for Refugees (UNHCR) was also invited to attend.

9. Reports of the ILO Committee of Experts on the Application of Conventions and Recommendations submitted to the International Labour Conference were made available to the members of the Committee on the Elimination of Racial Discrimination, in accordance with arrangements for cooperation between the two committees. The Committee took note with appreciation of the reports of the Committee of Experts, in particular of those sections which dealt with the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Indigenous and Tribal Peoples Convention, 1989 (No. 169), as well as other information in the reports relevant to its activities.

10. UNHCR submits comments to the members of the Committee on all States parties whose reports are being examined when UNHCR is active in the country concerned. These comments make reference to the human rights of refugees, asylum-seekers, returnees (former refugees), stateless persons and other categories of persons of concern to UNHCR. UNHCR representatives attend the sessions of the Committee and report back on any issues of concern raised by Committee members. At the country level, although there is no systematic follow-up to the implementation of the Committee's concluding observations and recommendations in the 130 UNHCR field operations, these are regularly included in activities designed to mainstream human rights in their programmes.

11. On 4 August 2004, the Committee held a joint meeting with the International Law Commission, at the latter's invitation, on the question of reservations to human rights treaties. The Chairpersons of both the International Law Commission and the Committee welcomed the cooperation between their respective bodies which was initiated in March 2003 when the Committee submitted its preliminary views on the issue to the Commission. The Rapporteur of the Commission on reservations to treaties, Mr. Alain Pellet, reiterated his appreciation for the position of the Committee as outlined in its preliminary views. Furthermore, he presented the overall approach of the Commission and the evolution of its position since it started discussing the question of reservations to treaties. The Chairperson of the Committee referred to a working paper assessing the recent practice of the Committee regarding reservations and invited Mr. Linos-Alexander Sicilianos to provide a brief analysis of the information included in this document. Mr. Sicilianos explained that article 20 of the Convention constituted a specific basis for the Committee as it provided criteria for admissibility and validity of reservations and stressed that a similar provision did not exist in other human rights treaties. While relying on this provision as a starting point, the Committee adopted a flexible and pragmatic approach regarding reservations. The Committee requested further information or formulated substantive recommendations on issues covered by reservations, while inviting States to consider the scope,

or even the withdrawal of their reservations. In some cases, the Committee had had to adopt a critical position regarding the compatibility of reservations of a general character with the provisions, or even with the object and purpose of the Convention. Mr. Sicilianos' presentation was followed by an exchange of views with the members of the International Law Commission which also focused on the issue of the late widening of the scope of a reservation referred to in the recent work of the Commission. Some members of the Committee expressed concern regarding this issue, which could pose serious problems but which, for the time being was not relevant for the Convention. The Committee took note of the approach of the Special Rapporteur according to which the late widening of the scope of a reservation is not valid if a single State opposes it.

12. Mr. Miloon Kothari, Special Rapporteur of the Commission on Human Rights on adequate housing as a component of the right to an adequate standard of living, addressed the Committee at its 1666th meeting (sixty-fifth session), on 17 August 2004 and a fruitful discussion ensued on ways to enhance cooperation with the Committee.

F. Other matters

13. The Acting High Commissioner for Human Rights addressed the Committee at its 1637th meeting (sixty-fourth session), on 10 March 2004. After welcoming the progress registered in the proposed review process of the treaty body system, he reiterated his support for new measures aiming to harmonize the work and procedures of the seven treaty bodies and highlighted the importance of follow-up procedures to the recommendations adopted by those bodies. Furthermore, the Acting High Commissioner emphasized the need to continue strengthening national systems for the protection of human rights. He also thanked the two members of the Committee who had taken part in the second session of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action and recalled that during the panel discussion on complementary standards, he had stressed the need to draw up a new convention on human rights education. The Acting High Commissioner drew the Committee's attention to the fact that 7 April 2004 would mark the tenth anniversary of the genocide in Rwanda. He also highlighted ongoing discussions on the need for an additional protocol to the Convention on the Prevention and Punishment of the Crime of Genocide. Finally, the Acting High Commissioner called upon States parties that had not yet done so to make the declaration under article 14 of the Convention and recognize the competence of the Committee to examine communications submitted by individuals and groups of individuals.

14. The High Commissioner for Human Rights addressed the Committee at its 1643rd meeting (sixty-fifth session), on 2 August 2004. Recalling that the rigorous implementation of treaties was essential for the preservation and promotion of the rule of law, the High Commissioner noted that discrimination represented one of the main obstacles to compliance with rule of law principles. She welcomed the possibility of the adoption by the Committee of early warning measures and urgent action procedures aimed at preventing or, at least limiting the scale or number of serious violations of the Convention. The High Commissioner stressed, however, that the work of the Committee was crucial not only in relation to countries confronted with particularly grave situations, but that all States must remain vigilant and continue combating racism, including its most insidious forms. The High Commissioner welcomed the thematic debate held by the Committee on racial discrimination against non-citizens and emphasized that the work of the Committee in this area

was particularly important at a time when xenophobia, particularly against migrants, refugees and asylum-seekers, constituted a most disturbing form of racism. Finally, she stressed that there was a need to make the recommendations and jurisprudence of treaty bodies more accessible and visible.

G. Adoption of the report

15. At its 1672nd meeting, held on 20 August 2004, the Committee adopted its annual report to the General Assembly.

Note

[1] *Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 18* (A/8718), chap. IX, sect. B.

II. PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES

16. The Committee, at its 979th meeting, on 17 March 1993, adopted a working paper to guide it in its future work concerning possible measures to prevent, as well as more effectively respond to, violations of the Convention.[1] The Committee noted in its working paper that efforts to prevent serious violations of the International Convention on the Elimination of All Forms of Racial Discrimination would include early warning measures and urgent procedures.

17. The following sections provide the text of the decisions adopted by the Committee under the early warning and urgent procedures at its sixty-fifth session:

Decision 1 (65)

Situation in Darfur

The Committee on the Elimination of Racial Discrimination,

Alarmed by the current events in Darfur,

Convinced that these events have an ethnic and racial dimension,

Acting in pursuance of its mandate, which is to ensure the universal application of the International Convention on the Elimination of All Forms of Racial Discrimination and to promote the measures necessary for understanding among racial and ethnic groups,

Referring to its decision 5 (54) of 19 March 1999 on the Sudan, and particularly paragraph 5 thereof,

Recalling the letter sent by the Chairman of the Committee on 12 March 2004, calling on the State party to submit to it before 31 July 2004 detailed information on the current situation in Darfur,

Noting that the State party has not forwarded the requested information to it,

Taking note of Security Council resolution 1556 (2004) of 30 July 2004, in which the Council condemned all acts of violence and violations of human rights and international humanitarian law by all parties to the crisis, in particular by the Janjaweed, including indiscriminate attacks on civilians, rapes, forced displacements and acts of violence, especially those with an ethnic dimension, and expressed its utmost concern at the consequences of the conflict in Darfur on the civilian population, including women, children, internally displaced persons and refugees,

1. *Calls* for strict compliance with Security Council resolution 1556 (2004) and all measures that it prescribed, in order to ensure the prompt cessation of large-scale violations of human rights in Darfur and, in particular, violations of the International Convention on the Elimination of All Forms of Racial Discrimination;

2. *Considers* that the deployment in Darfur of an adequately reinforced African Union-led protection force with the support of the League of Arab States and the logistical and financial assistance of the European Union and the United States should greatly facilitate the speedy implementation of Security Council resolution 1556 (2004).

1668th meeting
18 August 2004

Decision 2 (65)

Israel

The Committee recalls that in its decision 1 (63), it called for the revocation by Israel of its Temporary Suspension Order of May 2002, enacted into law as the Nationality and Entry into Israel Law (Temporary Order) on 31 July 2003, which suspended, for a renewable one-year period, the possibility of family reunification, subject to limited and discretionary exceptions, in cases of marriage between an Israeli citizen and a person residing in the West Bank or Gaza. The Committee had also noted with concern that the Suspension Order of May 2002 already adversely affected many families and marriages, and that the Nationality and Entry into Israel Law (Temporary Order) of 31 July 2003 raised serious issues under the International Convention on the Elimination of All Forms of Racial Discrimination.

In view of the renewal, in disregard of the Committee's request, for a period of six months until 31 December 2004 of the Temporary Suspension Order of May 2002, enacted into law as the Nationality and Entry into Israel Law (Temporary Order) on 31 July 2003, the Committee reiterates its call for this law to be revoked.

Bearing in mind its request, in decision 2 (63), for detailed information on this issue in the next periodic report submitted by Israel and the failure of the State party to submit its tenth, eleventh, twelfth and thirteenth periodic reports, due from 1998 to 2004; and in accordance with article 9, paragraph 1 (b), of the International Convention on the Elimination of All Forms of Racial Discrimination and with reference, in particular, to article 5 of the Convention, the Committee requests the Government of Israel to send it a report urgently, and no later than 31 December 2004.

1671st meeting
20 August 2004

Note

[1] *Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 18* (A/8718), chap. IX, sect. B.

III. CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

BAHAMAS

18. The Committee considered the fifth to fourteenth periodic reports of the Bahamas, due from 1984 to 2002 and submitted as a single document (CERD/C/428/Add.1), at its 1620th and 1621st meetings (CERD/C/SR.1620 and 1621) on 26 and 27 February 2004. At its 1637th meeting, held on 11 March 2004, it adopted the following concluding observations.

A. Introduction

19. The Committee welcomes the periodic report of the State party and the fact that the State party was represented by a high-ranking delegation. It is pleased at the quality of the dialogue it has thus re-established with the Bahamas, and pays tribute to the delegation for having given detailed answers to the many questions put to it.

20. The Committee appreciates the fact that the report, the general form and contents of which are consistent with the Committee's guidelines, is the result of cooperation between ministries. It does, however, regret that it does not contain sufficient information on the practical application of the Convention.

B. Factors and difficulties impeding the implementation of the Convention

21. The Committee takes note of the difficulties confronting the State party as a result of the large influx of migrants and refugees from neighbouring countries, in particular Haiti and Cuba.

C. Positive aspects

22. The Committee welcomes the adoption in 2001 of the Employment Act containing a clause prohibiting racial discrimination.

23. The Committee notes with satisfaction the State party's commitment to make every effort to guarantee that migrants can exercise their human rights without discrimination.

24. The Committee notes with interest the information that a survey of migrants in the Bahamas and their living conditions is shortly to be launched by the International Organization for Migration.

25. The Committee notes with satisfaction that the Office of the United Nations High Commissioner for Refugees and non-governmental organizations have access to the Carmichael Road Detention Centre where undocumented migrants and asylum-seekers are held.

26. The Committee welcomes the State party's ratification in 1994 of the amendment to article 8, paragraph 6, of the Convention.

D. Matters of concern and recommendations

27. The Committee notes with concern the reservations to the Convention entered by the State party, in particular the vague and general statement that the State party will not accept obligations going beyond constitutional limits or the obligation to introduce a judicial process beyond those prescribed under the Constitution.

The Committee encourages the State party to consider withdrawing all the reservations it entered upon acceding to the Convention.

28. The Committee notes that the State party has no precise figures on the ethnic composition of the population, and points out that such information is necessary to assess how the Convention is being applied in practice.

The Committee invites the State party to include more detailed questions in the population census so as to get a better idea of the ethnic composition of the country, and draws the State party's attention to paragraph 8 of its general guidelines on the form and contents of reports.

29. The Committee reiterates its concerns about the definition of racial discrimination given in article 26 of the Constitution, which is not completely consistent with article 1 of the Convention.

The Committee invites the State party to bring its internal law into line with the Convention.

30. The Committee regrets that the Bahamas has still not passed a law meeting the requirements of article 4 of the Convention, while noting that the State party does intend to modify its legislation to that effect.

The Committee encourages the State party to comply with the requirements of article 4 of the Convention. It also suggests including racial motivation as an aggravating factor in criminal law.

31. The Committee is concerned at reports of statements and press articles inciting racial discrimination against migrants, Haitians in particular, and actual discrimination against migrants in fields such as education and employment. It is disturbed to hear that the State party says it has not been told of such allegations.

The Committee recommends the State party to conduct an inquiry into these allegations and notify the Committee of the outcome. Where appropriate, the State party should take all necessary punitive, educational and other measures to put an end to such conduct.

32. Noting the policy of Bahamianization applied in certain job sectors and in housing, the Committee regrets that the periodic report does not contain sufficient information on the practical application of article 5 of the Convention.

The Committee invites the State party to provide it with such information, especially as it relates to migrants, in its next periodic report. It would welcome

information on the effects of applying the clause in the 2001 Employment Act prohibiting racial discrimination, and more detailed information on the Bahamianization policy in jobs and housing and its effects on migrants' living conditions.

33. The Committee takes note of the constitutional reform process now in progress but is concerned at the fact that the Constitution contains discriminatory provisions on the subject of women's rights to transmit their nationality to their children and foreign spouses.

It invites the State party to continue its efforts to remedy such discrimination, and draws its attention to the Committee's general recommendation XXV (2000) on gender-related dimensions of racial discrimination.

34. The Committee notes with concern that people entering the country without proper papers are automatically detained without such detention being subjected to judicial review. It takes note of the delegation's statement that such detention does not generally last longer than a few days but is disturbed at reports emphasizing that such detention sometimes extends to a year and more, depending on migrants' nationalities.

The Committee emphasizes that detention should be a last resort and invites the State party to adopt alternatives to detention for undocumented migrants and asylum-seekers. It recommends the institution of a right of appeal against orders to detain people entering the country without proper papers; such individuals should be duly informed of their rights and maximum duration of detention should be strictly defined.

35. The Committee notes that it has not received sufficient information on the rights of asylum-seekers and is disturbed by reports that the current system is incapable of guaranteeing that no one will be sent back to a country where his life or liberty might be in danger.

The Committee advises the State party to guarantee the rights of asylum-seekers to information, the services of an interpreter, legal assistance and judicial remedies. It would like more detailed information, in particular on the procedure for granting refugee status and the average length of time that asylum-seekers spend in detention.

36. The Committee is disturbed that the State party has not yet adopted measures to implement into domestic law the 1951 Convention relating to the Status of Refugees and the related Protocol of 1967, which the Bahamas ratified in 1993.

The Committee takes note of the information that a bill on the matter is currently being drafted and encourages the State party to adopt the necessary measures to implement the Convention and Protocol into domestic law, in particular as regards the non-refoulement clause provided in article 33 of the 1951 Convention.

37. Taking note of the substantial efforts already made to manage the Carmichael Road Detention Centre effectively, the Committee is very concerned at reports that conditions in detention there are unsatisfactory, especially as regards access to food and drinking water, hygiene and access to medical care.

The Committee recommends the State party to step up immediately its efforts in this connection and provide the Committee with detailed information on conditions in detention at the Carmichael Road Centre.

38. The Committee notes the existence of information suggesting that a policy of racial reconciliation between the black and white communities might still be necessary.

It advises the State party to step up its efforts in this connection and supply in its next report detailed information on the state of relations between the black and white communities in the Bahamas.

39. The Committee notes the State party's assertion that there have been neither complaints nor court decisions on the subject of racial discrimination, and which is put forward as evidence of the absence of racial discrimination in the Bahamas.

The Committee urges the State party to investigate why there are no complaints of racial discrimination and whether, in particular, it may be because the country does not have a sufficient span of legislation to combat discrimination. The State party should also verify that the lack of such complaints is not the result of victims' lack of awareness of their rights, fear of reprisals, lack of confidence in the police and judicial authorities, or the authorities' lack of attention or sensitivity to cases of racial discrimination.

40. The Committee is concerned at the absence of training of judges and judicial officers in combating racial discrimination, and the fact that the State party considers it enough to have non-Bahamian judges sitting on the country's highest courts.

The Committee advises the State party to provide training in combating racial discrimination, and in particular in the substance of the Convention, for judges and judicial officers.

41. The Committee is concerned that the substance of the Convention has not been brought to the attention of the public, on the grounds that the population is relatively homogeneous.

It recommends the State party to give the general public regular information on the substance of the Convention and step up its efforts to make people aware of the opportunities they have to appeal against instances of racial discrimination.

42. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures they have taken to implement the Durban Declaration and Programme of Action at national level.

43. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention, and recommends that it consider the possibility of doing so.

44. The Committee advises the State party to publish its periodic reports as soon as they are submitted, and to distribute the Committee's concluding observations the same way.

45. The Committee notes that the periodic report was submitted 19 years after its due date, and invites the State party to take account of the reporting intervals specified in the Convention when submitting future reports. It recommends that the State party submit its fifteenth and sixteenth periodic reports in a single document by 4 September 2006, and respond to all the points raised in these concluding observations.

BRAZIL

46. The Committee considered the fourteenth to seventeenth periodic reports of Brazil, which were due on 4 January 1996, 1998, 2000, and 2002 respectively, submitted as one document (CERD/C/431/Add.8), at its 1632nd and 1633rd meetings (CERD/C/SR.1632 and 1633), held on 5 and 8 March 2004. At its 1641st meeting, held on 12 March 2004, it adopted the following concluding observations.

A. Introduction

47. The Committee welcomes the report submitted by the State party and expresses its appreciation for the opportunity to engage in a frank and constructive dialogue with the State party.

48. While noting that the report is not fully consistent with the reporting guidelines, the Committee welcomes its self-critical tone and the fact that the State party has addressed some of the concerns and recommendations expressed by the Committee in its previous concluding observations (CERD/C/304/Add.11).

B. Positive aspects

49. The Committee welcomes the adoption, in 2002, of the National Affirmative Action Programme, as an important mechanism to implement the Durban Declaration and Programme of Action, as well as the second National Human Rights Programme.

50. The Committee commends the entry into force, in January 2003, of the new Civil Code which is in line with the 1988 Constitution and eliminates discriminatory restrictions on the exercise of civil rights by indigenous peoples contained in the former 1916 Civil Code.

51. The Committee takes note of the enactment of Law No. 9459 of 13 May 1997 which modifies Law No. 7716 of 1989 by expanding its focus to include acts arising not only from discrimination based on race or colour, but also discrimination based on ethnicity, religion or nationality.

52. The Committee notes the establishment of specialized institutions to combat racial discrimination, demonstrating the commitment of the State party in this area, such as the National Council for Combating Discrimination established in 2001, which will become the National Council to Promote Racial Equality in 2004, and the Special Secretariat for the Promotion of Race and Equality (SEPPIR) established in 2003.

53. The Committee welcomes the fact that in 2002 the State party made the optional declaration provided for in article 14 of the Convention.

54. The Committee notes with satisfaction the entry into force in August 2003 of ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries.

55. The Committee acknowledges with satisfaction the open standing invitation to all thematic rapporteurs of the Commission on Human Rights to visit Brazil.

56. The Committee also expresses satisfaction with the statement that non-governmental organizations were consulted in the preparation of the report.

C. Concerns and recommendations

57. The Committee reiterates the concern expressed in its previous concluding observations (CERD/C/304/Add.11) about the persistence of deep structural inequalities affecting black and mestizo communities and indigenous peoples.

The Committee recommends that the State party intensify its efforts to combat racial discrimination and eliminate structural inequalities, and provide information on the implementation of measures taken, in particular those provided by the second National Human Rights Programme and the National Affirmative Action Programme.

58. The Committee is concerned about de facto racial segregation faced by some black, mestizo and indigenous peoples in rural and urban areas, such as the commonly known "favelas", and regrets that the State party has not provided sufficient information in this regard.

In the light of its general recommendation XIX, the Committee reminds the State party that racial segregation may also arise without any initiative or direct involvement by the public authorities, and encourages the State party to continue monitoring all trends which may give rise to racial or ethnic segregation and to work for the eradication of the resulting negative consequences. Furthermore, the Committee invites the State party to provide information on the measures taken to address this issue.

59. The Committee takes note that a new Statute of Indigenous Peoples (*Estatuto da Sociedades Indígenas*) is currently being elaborated in the National Congress.

The Committee recommends that the State party provide an update of developments in this regard.

60. While the Committee takes note of the State party's objective to complete the demarcation of indigenous lands by 2007 and considers it an important step towards securing the rights of indigenous peoples, it remains concerned at the fact that effective possession and use of indigenous lands and resources continues to be threatened and restricted by recurrent acts of aggression against indigenous peoples.

In the light of general recommendation XXIII on the rights of indigenous peoples, the Committee recommends that the State party complete the demarcation of indigenous lands by 2007. Furthermore, the Committee recommends that the State party adopt urgent measures to recognize and protect, in practice, the right of indigenous peoples to own, develop, control and use their lands, territories and resources. In this connection, the Committee invites the State party to submit information on the outcome of cases of conflicting interests over indigenous lands and resources, particularly those where indigenous groups have been removed from their lands.

61. The Committee is concerned that only a few quilombo areas have been officially recognized, and that an even smaller number of these communities have received permanent title deeds to their lands.

The Committee recommends that the State party accelerate the process of identification of quilombo communities and lands and distribution of the respective title deeds to all such communities.

62. The Committee is concerned by allegations concerning discrimination faced by gypsies with regard to birth registration and access to schools for their children.

In the light of general recommendation XXVII on discrimination against Roma (gypsies), the Committee invites the State party to clarify this matter.

63. The Committee is concerned that, despite the widespread occurrence of offences of discrimination, the relevant domestic legal provisions against racist crimes are reportedly rarely applied.

The Committee recommends that the State party provide statistical information on prosecutions launched, and penalties imposed, in cases of offences which relate to racist crimes, and where the relevant provisions of the existing domestic legislation have been applied. It also recommends that the State party improve the awareness and training programmes regarding the existence and treatment of racist crimes on the part of the persons engaged in the administration of justice, including judges, public prosecutors, lawyers and law enforcement officials.

64. The Committee is disturbed by the increase in the number of racist organizations, such as neo-Nazi groups, and the spread of racist propaganda on the Internet.

The Committee recommends that the State party clarify further the content and application of the relevant provisions of domestic law that address the existence and activity of racist organizations, as well as those that prohibit racist propaganda on the Internet.

65. The Committee reiterates the concern expressed in its previous concluding observations over the fact that illiterate citizens, who are found especially among the indigenous, black or mestizo groups, do not have the right to be elected to public office.

In light of article 5 (c) of the Convention, the Committee recommends that the State party adopt adequate measures to combat illiteracy and allow all citizens the enjoyment of all political rights, in particular the right to be elected to public office.

66. The Committee takes note that the report has not provided sufficient information on the cultural rights of persons belonging to minorities, in the context of article 5 of the Convention. In particular, no reference is made to the right of minority and ethnic groups to receive education in their own languages.

The Committee recommends that the State party provide further information in this regard.

67. The Committee takes note that the Brazilian Geographic and Statistical Institute (IBGE) is considering implementing changes in the methodology it uses to classify the various groups of the population.

The Committee invites the State party to provide an update of developments in this regard.

68. The Committee encourages the State party to continue consulting with organizations of civil society working in the area of combating racial discrimination during the preparation of the periodic reports.

69. The Committee urges the State party to ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194 of 18 December 2002, in which the General Assembly strongly urges States parties to accelerate their domestic ratification procedures with regard to the amendment, and to notify the Secretary-General expeditiously in writing of their agreement to the amendment. A similar appeal has been reiterated by General Assembly resolution 58/160 of 22 December 2003.

70. The Committee recommends the State party to disseminate widely information on the available domestic remedies against acts of racial discrimination, on the legal avenues to obtain compensation in cases of discrimination, and on the individual complaints procedure under article 14 of the Convention.

71. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

72. The Committee recommends that the State party submit jointly its eighteenth, nineteenth and twentieth periodic reports in one document, due on 4 January 2008, as an updating report addressing all points raised in the present concluding observations.

LEBANON

73. The Committee considered the fourteenth to sixteenth periodic reports of Lebanon (CERD/C/383/Add.2), submitted as one document and its seventeenth periodic report (CERD/C/475/Add.1), which were due on 12 December 1998, 2000, 2002 and 2004 respectively, at its 1628th and 1629th meetings (CERD/C/SR.1628 and 1629), held on 3 and 4 March 2004. At its 1639th meeting, held on 11 March 2004, it adopted the following concluding observations.

A. Introduction

74. The Committee welcomes the reports submitted by the State party and the additional oral information provided by the delegation. The Committee has been encouraged by the attendance of a delegation and expresses its appreciation for the opportunity to continue its dialogue with the State party. The Committee notes however that the seventeenth periodic report was submitted at the last minute.

75. The Committee acknowledges that the State party has addressed some of the concerns and recommendations of the Committee's concluding observations on the sixth to thirteenth periodic reports (CERD/C/304/Add.49). However, the Committee regrets that the report does not conform fully with the Committee's reporting guidelines and contains insufficient information on the practical implementation of the Convention.

B. Factors and difficulties impeding implementation of the Convention

76. The Committee notes that the State party continues to be confronted with numerous challenges resulting from almost two decades of war, foreign intervention and partial occupation, which have resulted in widespread destruction. Furthermore, it takes note of the fact that Lebanon has hosted a large number of Palestinian refugees for several decades.

C. Positive aspects

77. The Committee notes with appreciation the statistical information on the number of non-citizens in Lebanon provided in the report, disaggregated by country of origin and occupational category.

78. The Committee notes with satisfaction the explanation provided in the report on the status of the International Convention on the Elimination of All Forms of Racial Discrimination in domestic law, pointing out in particular that where the treaty is not self-executing, implementing measures have to be taken. It is to be welcomed that treaties ratified or acceded to by Lebanon, particularly the Convention, become part of internal law upon the exchange of the instruments of ratification or accession.

79. The Committee takes note of the efforts to amend the penal code and ensure full compliance with the Convention with regard to article 4.

80. The Committee welcomes the measures taken with regard to foreign workers, in particular order No. 5 of the Ministry of Labour dated 17 January 2003, concerning regulation of the work of agencies that recruit domestic employees. The Committee further notes the adoption by the Ministry of Labour of order No. 142/1 of 20 November 2003, pending the amendment of the labour code. It welcomes the decisions by courts declaring illegal the confiscation of passports by employers.

81. The Committee welcomes the inclusion in school curricula of human rights education and in particular the concept of combating discrimination, especially racial discrimination, and promoting tolerance.

D. Concerns and recommendations

82. While acknowledging the historical and political background of the system of confessionalism, as well as some steps taken towards its gradual elimination in accordance with the Taif agreement of 22 October 1989 and article 95 of the Constitution, the Committee notes the overall resistance and lack of progress in this regard. While recognizing the need to balance any steps with the maintenance of peace, the Committee remains concerned at the possible impact of this system on the full implementation of the Convention in the State party.

> **The Committee recommends that the State party undertake a continued effort to monitor and review the situation and to take appropriate measures, including educational and legal measures, towards the gradual elimination of the system of political confessionalism in the spirit of the Taif agreement and the constitutional amendments, taking into account public views and feelings.**

83. While welcoming the measures taken to improve the protection of migrant workers, the Committee remains concerned at the situation of migrant workers in practice, in particular domestic workers, who do not benefit fully from the protection of the labour code. Furthermore, the Committee regrets that insufficient information was provided as to how the bill for the establishment of a new labour code would affect migrant workers and whether it would provide any specific protection against discrimination on the grounds specified in the Convention.

> **The Committee urges the State party to take all necessary measures to extend full protection to all migrant workers, in particular domestic workers. In addition, the State party should provide information in its next periodic report on any bilateral agreements with the countries of origin of a large number of migrant workers. In addition, the Committee recommends that the State party ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990.**

84. While acknowledging the political factors related to the presence of Palestinian refugees in Lebanon, the Committee reiterates its concern with regard to the enjoyment by the Palestinian population present in the country of all rights stipulated in the Convention on the basis of non-discrimination, in particular access to work, health care, housing and social services as well

as the right to effective legal remedies. The Committee notes the statement of the delegation that the 2001 property law does not apply retroactively and that Palestinians' right to inherit remains in force.

> **The Committee urges the State party to take measures to ameliorate the situation of Palestinian refugees with regard to the enjoyment of the rights protected under the Convention, and at a minimum to remove all legislative provisions and change policies that have a discriminatory effect on the Palestinian population in comparison with other non-citizens.**

85. The Committee notes that Lebanese citizenship is derived exclusively from the father, which may result in a situation of statelessness for children of a Lebanese mother and non-citizen father, where registration under the father's nationality is not possible.

> **The Committee urges the State party to review its relevant legislation, so as to bring it in line with the provisions of the Convention and requests to be informed on this in the next periodic report. In addition, the Committee recommends that the State party ratify the Convention on the Reduction of Statelessness of 1961.**

86. The Committee regrets that no statistics were provided on cases where the relevant provisions of domestic legislation concerning racial discrimination were applied.

> **The Committee requests that the State party include in its next periodic report statistical information on prosecutions launched, and penalties imposed, in cases of offences which relate to racial discrimination, and where the relevant provisions of the existing domestic legislation have been applied. The Committee reminds the State party that the mere absence of complaints and legal action by victims of racial discrimination may be mainly an indication of the absence of relevant specific legislation, or of a lack of awareness of availability of legal remedies, or of the insufficient will by the authorities to prosecute. It is therefore essential to provide for the relevant provisions in the national legislation and to inform the public of the availability of all legal remedies in the field of racial discrimination.**

87. The Committee notes that no response was provided by the delegation with regard to efforts by the State party to establish a National Human Rights Institution.

> **The Committee requests the State party to include information in this regard in the next periodic report.**

88. The Committee encourages the State party to consult with organizations of civil society working in the area of combating racial discrimination during the preparation of the next periodic report.

89. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention, and recommends that it consider the possibility of making such a declaration.

90. The Committee strongly recommends that the State party ratify the amendments to article 8, paragraph 6 of the Convention, adopted on 15 January 1992 at the

Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194, in which the General Assembly strongly urges States parties to accelerate their domestic ratification procedures with regard to the amendment, and to notify the Secretary-General expeditiously in writing of their agreement to the amendment. A similar appeal has been reiterated by General Assembly resolution 58/160.

91. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures they have taken to implement the Durban Declaration and Programme of Action at national level.

92. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

93. The Committee recommends that the State party submit its eighteenth periodic report on 12 December 2006, and that it address in this report all points raised in the present concluding observations.

LIBYAN ARAB JAMAHIRIYA

94. The Committee considered the fifteenth to seventeenth periodic reports of the Libyan Arab Jamahiriya, respectively due from 1998 to 2002, submitted as one document (CERD/C/431/Add.5), at its 1626th and 1627th meetings (CERD/C/SR.1626 and 1627), held on 2 and 3 March 2004. At its 1639th meeting (CERD/C/SR.1639), held on 11 March 2003, it adopted the following concluding observations.

A. Introduction

95. The Committee welcomes the reports submitted by the State party and the opportunity to resume its dialogue with the Libyan Arab Jamahiriya, in a context more favourable than in 1998. The Committee was encouraged by the attendance of a delegation and expresses its appreciation for its efforts to respond to the questions asked.

96. The Committee appreciates the efforts made by the State party to comply with the reporting guidelines of the Committee, but regrets the lack of information regarding the practical implementation of the Convention and the lack of answers on issues raised in the previous concluding observations.

B. Positive aspects

97. The Committee notes with appreciation that steps towards the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families have been taken.

98. The Committee also notes with appreciation the steps taken by the State party to ratify the amendments to article 8, paragraph 6, of the Convention.

C. Concerns and recommendations

99. The Committee takes note again of the discrepancy between the assessment of the State party, according to which Libyan society is ethnically homogenous, and information indicating that Amazigh, Tuareg and Black African populations live in the country.

The Committee draws the attention of the State party to its general recommendation IV (1973) as well as to paragraph 8 of its Reporting guidelines, and reiterates its recommendation that information on the ethnic composition of the population be provided in its next periodic report.

100. The Committee regrets that no detailed information was provided by the State party on non-citizens residing in the Libyan Arab Jamahiriya, despite the request made in its previous concluding observations.

The Committee wishes to receive information in the next periodic report relating to documented and undocumented migrant workers and members of their families, as well as refugees, in particular regarding their country of origin, their status and their living conditions. It invites the State party to ratify the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

101. The Committee notes that the State party, in its periodic report, categorically maintains that racial discrimination does not exist in the Libyan Arab Jamahiriya. It understands that, in the view of the State party, although incidents of racial discrimination may occur, there is no systematic racial discrimination on the part of the State party.

The Committee recommends that the State party conduct studies with a view to effectively assessing and evaluating the occurrence of racial discrimination in the country, and review its assessment.

102. The Committee further notes the absence of comprehensive legislation to prevent and prohibit racial discrimination, in particular under article 4 of the Convention. It wishes to underline that, although the Convention prevails over the State party's domestic law, article 4 cannot be directly implemented, as it calls for the enactment of specific provisions setting out sanctions to be applied to offences strictly defined under the law.

The Committee recommends to the State party that it enact legislation responding to all requirements of article 4 of the Convention.

103. The Committee is deeply concerned about reported acts of violence, stemming from anti-Black sentiment in the population, which were perpetrated in September 2000 against African migrant workers and led to the death of many persons. The Committee regrets that no updated response was provided by the State party on the action taken to sanction those responsible and prevent the occurrence of such violence in the future.

The Committee requests that the State party submit detailed information about the number of persons who died and their nationality, the results of the inquiry made by the authorities, the prosecution of persons in relation to these events, and sentences, if any, that were pronounced. The Committee also wishes to receive

information about the results of the measures previously announced by the State party in response to these events, in particular the creation of a committee to look into the events and to study all manifestations of xenophobia, as well as measures for the regularization of undocumented migrants.

104. The Committee is concerned that, according to some information, thousands of African migrant workers have been expelled since 2000.

The Committee wishes to receive more detailed information about the rules for return, deportation or expulsion of migrants. It recommends that the State party ensure that the removal of non-citizens does not discriminate amongst them on the basis of ethnic or national origin.

105. The Committee is concerned that, according to some information, deaths of African migrants regrettably occur during transit to settle in the Libyan Arab Jamahiriya or through the Jamahiriya towards Europe.

The Committee recommends that the State party provide information about this issue in its next periodic report, including on the measures it has adopted in this regard.

106. The Committee regrets that information provided on the implementation of article 5 of the Convention is incomplete.

The Committee recommends that the State party focus more precisely on the issue of non-discrimination when reporting on the enjoyment of the rights under article 5 of the Convention, and provide practical information on the enjoyment of these rights by migrants, Blacks, Tuaregs and Amazighs within the jurisdiction of the State party.

107. The Committee is concerned at information that anti-Black sentiment and racially motivated acts against foreign workers have an adverse impact on their employment situation and terms and conditions of employment.

The Committee recommends that the State party ensure that foreign workers are not discriminated against in employment on the basis of their colour or their ethnic or national origin.

108. The Committee notes that, according to some information, there is no recognition of Amazigh language and culture in the Libyan Arab Jamahiriya and Amazighs are impeded from preserving and expressing their cultural and linguistic identity.

The Committee stresses the obligation of the State party, under article 5 of the Convention, to respect the right of Amazighs to enjoy their own culture and to use their own language, in private and public, freely and without discrimination. It invites the State party to enhance the enjoyment of the right of association for the protection and promotion of Amazigh culture, and to take measures especially in the field of education in order to encourage knowledge of the history, language and culture of Amazighs.

109. Noting that the State party has not provided information on the practical implementation of article 6 of the Convention, the Committee recommends that the State party raise the awareness of the population on their rights under the Convention, including their right to an effective remedy, and to sensitize the police and judicial authorities to the issue of racial discrimination.

110. The Committee takes note of the reportedly insufficient human rights education programmes in school curricula, in particular regarding the promotion of tolerance and respect for religious and ethnic minorities.

The Committee encourages the State party to strengthen its efforts in this area, and to submit detailed information on this issue in its next periodic report.

111. The Committee further notes that the State party has not made the optional declaration provided for in article 14 of the Convention, and recommends that it consider the possibility of making such a declaration.

112. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures they have taken to implement the Durban Declaration and Programme of Action at national level.

113. The Committee invites the State party to take advantage of the technical assistance available under the advisory services and technical assistance programme of the Office of the United Nations High Commissioner for Human Rights for the purpose of drafting comprehensive legislation aimed at preventing and prohibiting racial discrimination.

114. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

115. The Committee recommends that the State party submit its eighteenth periodic report jointly with its nineteenth periodic report, due on 4 January 2006, and that the report be comprehensive and address all points raised in the present concluding observations.

NEPAL

116. The Committee considered the fifteenth and sixteenth periodic reports of Nepal, due on 1 March 2000 and 1 March 2002 respectively, submitted in one document (CERD/C/452/Add.2), at its 1630th and 1631st meetings (CERD/C/SR.1630 and 1631), held on 4 and 5 March 2004. At its 1641st meeting (CERD/C/SR.1641), held on 12 March 2003, it adopted the following concluding observations.

A. Introduction

117. The Committee welcomes the report submitted by the State party and the additional oral information provided by the delegation. The Committee appreciates the efforts made by the State party to respond to its observations made in 2000. The Committee further welcomes the fact that the State party's delegation included a member of the National Dalit Commission and a member of the National Academy to Uplift Nationalities and Indigenous People, and expresses its appreciation for the candid and constructive responses of the delegation to the questions asked during the dialogue.

B. Factors and difficulties impeding implementation of the Convention

118. The Committee notes that the State party is facing serious economic hardship, extreme poverty of a significant part of its population, as well as severe political and institutional difficulties as a result of the insurgency. The dissolution of Parliament in October 2002 also constitutes a significant impediment to the full implementation of the Convention.

C. Positive aspects

119. The Committee welcomes the adoption of several action plans within the framework of the State party's Ninth and Tenth Periodic Plans, in particular the programmes for Dalits, nationalities and indigenous peoples of Nepal.

120. The Committee notes with satisfaction that a number of institutions have recently been established with the aim of promoting human rights and combating discrimination, including the National Dalit Commission, the National Committee for the Upliftment of the Depressed, the Oppressed and Dalits Community, the Academy to Uplift Nationalities and Indigenous Peoples, and the National Foundation for the Development of Indigenous People and Nationalities.

121. The Committee is encouraged by the information provided by the State party on its efforts to implement special measures for members of disadvantaged groups, in accordance with article 2, paragraph 2, of the Convention, to ensure equal enjoyments of rights by all persons.

122. The Committee welcomes the consultation that the State party conducted with civil society organizations during the preparation of the present report.

123. The Committee welcomes the information that the State party is considering withdrawing its reservations to articles 4 and 6 of the Convention and making the optional declaration provided for in article 14.

D. Concerns and recommendations

124. The Committee expresses concern over the effects of the insurgency, especially its impact on vulnerable groups, who are particularly affected. It is also concerned that this has also resulted in the diversion of State resources away from social and development programmes.

While acknowledging the State party's national security concerns, the Committee recommends that the State party seek to balance those concerns with its human rights obligations, in particular regarding members of vulnerable groups,

and allocate its budgets accordingly. Furthermore, the Committee underscores the importance of the restoration of Parliament in order to expedite the process of resuming normality in the country.

125. The Committee notes that, in addition to the National Human Rights Commission, a number of other institutions have recently been established with the aim of promoting human rights and combating discrimination.

The Committee recommends that these bodies be strengthened and given adequate financial support, so as to ensure their independence and effectiveness. Furthermore, the Committee requests that in its subsequent reports the State party provide information, inter alia, on their responsibilities, composition, methods and achievements, as well as measures taken to ensure adequate coordination of these bodies. The Committee would also welcome receiving information on the ability and responsibility of the National Human Rights Commission to act as a countrywide monitoring mechanism.

126. While the Committee welcomes the establishment of the National Dalit Commission, it is concerned that the Commission lacks a statutory basis, as long as the Parliament is not restored and a necessary act is not adopted.

The Committee recommends that the State party consider, as a priority, the adoption of the relevant statutory law to enable the National Dalit Commission to carry out its mandate effectively.

127. The Committee remains deeply concerned at the persistence of the de facto caste-based discrimination and the culture of impunity that apparently permeates the higher strata of a hierarchical social system. In particular, it is concerned at information on the existence of segregated residential areas for Dalits, social exclusion of inter-caste couples, restriction to certain types of employment, and denial of access to public spaces, places of worship and public sources of food and water, as well as at allegations that public funds were used for the construction of separate water taps for Dalits.

The Committee recommends that the State party, as a matter of priority, take measures to prevent, prohibit and eliminate private and public practices that constitute segregation of any kind, and make determined efforts to ensure the practical and effective implementation of these measures. The Committee further requests that information be included in the next periodic report on any follow-up measures taken by the State party to general recommendation XXIX on descent-based discrimination.

128. The Committee regrets the general paucity of information regarding the implementation of the Convention in relation to the enjoyment of all human rights by the indigenous peoples of Nepal. The Committee is also concerned over allegations of forced relocation and violations of the right of the indigenous peoples to own, develop, control and use their traditional homelands and resources in the name of wildlife preservation.

The Committee recommends that the State party take stricter measures to combat discrimination against indigenous peoples, in line with its

general recommendation XXIII on the right of indigenous peoples. It requests the State party to include in its next report information on actions taken, especially on its efforts to reconcile indigenous peoples' land rights with the preservation of wildlife. It further invites the State party to consider acceding to ILO Convention No. 169.

129. The Committee regrets the lack of information on prosecutions launched and penalties imposed in cases of offences which relate to racial discrimination, and the role of the National Human Rights Commission and the National Dalit Commission in dealing with such cases. The Committee stresses the need for a determined enforcement of the criminal justice system, and reminds the State party that the absence of complaints and legal action by victims of racial discrimination may be the result of the absence of relevant specific legislation, or of a lack of awareness of the availability of legal remedies, or of insufficient will on the part of the authorities to prosecute.

The Committee requests that the State party include in its next periodic report statistical information on complaints lodged, prosecutions launched and penalties imposed in cases of offences which relate to racial or ethnic discrimination. In particular, the Committee would welcome further information on cases invoking article 88 and article 11, paragraph 4, of the Constitution and the Miscellaneous Chapter of the Country Code. The Committee also requests information on legal measures that prohibit activities and organizations which promote or incite discrimination, or participation in them.

130. The Committee is concerned at the allegations of ill-treatment and ineffective protection of and discrimination against Dalits and other vulnerable groups in society, by law enforcement officials, especially the police. The Committee stresses that prompt and impartial investigations are paramount in counteracting discriminatory attitudes and practices.

The Committee recommends that the State party intensify its efforts to end such discriminatory practices. It further recommends that the procedure relating to the investigation of complaints with respect to the work of the police be conducted and overseen by a body independent of the police.

131. The Committee notes the lack of information in the periodic report on the situation of women belonging to disadvantaged groups who are victims of multiple discrimination, and expresses concern over the situation of forced prostitution of girls and women of the Badi caste.

The Committee recommends that the State party consider issues of political representation, personal security, employment and education, in line with general recommendations XXV (2000) on gender-related dimensions of racial discrimination and XXIX (2002) on descent-based discrimination, in taking measures to eliminate multiple discrimination against women who belong to vulnerable groups. The Committee further requests the State party to include in its next report the measures taken in this regard, including specific action taken to eradicate forced prostitution of Badi girls and women.

132. While welcoming the State party's efforts to implement special measures to advance and protect persons subjected to discrimination, the Committee remains concerned over the underrepresentation of disadvantaged groups in government, legislative bodies and the judiciary.

The Committee urges the State party to engage in efforts to promote awareness among the general public, as well as among members of disadvantaged communities, of the importance of their active participation in public and political life. The Committee recommends that the State party continue to enforce special measures to guarantee to members of disadvantaged groups the right to participate in elections, to vote and stand for election, and to have due representation in government, legislative bodies and the judiciary.

133. The Committee is concerned that, although the system of agricultural bonded labour known as *Kamaiya* was abolished in July 2000, the emancipated *Kamaiyas* are facing many problems, including lack of housing, land, work and education for their children.

The Committee recommends that the State party ensure effective enforcement of the Bonded Labour Prohibition Act 2002 and programmes adopted to put an end to the practice and discrimination against Kamaiyas. It further requests the State party to include information on the implementation of the act in its next periodic report.

134. The Committee is concerned by information that only the Tibetans who arrived in Nepal before 1990 and the Bhutanese are recognized as refugees by the authorities, and by recent information on forced expulsion of Tibetan refugees. It further expresses concern over the serious restriction of rights for the Bhutanese refugees and the lack of specific measures for unaccompanied refugee children.

The Committee reiterates its concern at the absence of legislative protection for refugees and asylum-seekers, and urges the State party to enact relevant legislation, and to ratify international instruments relating to the protection of refugees. It also encourages greater interaction with the Office of the United Nations High Commissioner for Refugees in this regard. The Committee wishes to receive further information in the next periodic report on measures taken by the State party.

135. The Committee notes that governmental action has been taken to sensitize the general public, including members of vulnerable groups, against discriminatory traditional customs and societal attitudes.

The Committee recommends that the State party take further measures to ensure the training and education of teachers, social workers and law enforcement officials, especially those deployed against the insurgents as well as the political segments of the society. The Committee encourages the State party to carry out comprehensive public education campaigns and to include intercultural education in school curricula.

136. The Committee notes that the Government broadcasts in several national languages. The Committee is concerned, however, with the lack of representation of disadvantaged groups in the State-owned media, and that issues such as racial discrimination and human rights receive little coverage by the media in general.

The Committee invites the State party to consider introducing special measures to ensure due representation in the mass media of members of disadvantaged groups, including Dalits.

137. The Committee urges that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention. In this connection, the Committee refers to General Assembly resolution 57/194, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment. A similar appeal has been reiterated by the General Assembly in its resolution 58/160.

138. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, and that it include in its next periodic report information on the follow-up measures taken.

139. The Committee encourages the State party to continue its engagement with civil society organizations during the preparation of the next periodic report and to disseminate it widely among the public upon submission. It further recommends that the Committee's concluding observations be similarly publicized.

140. The Committee recommends that the State party ensure the timely submission of its seventeenth, eighteenth and nineteenth periodic reports, combined in one document, due on 1 March 2008, and that it be an updating report, addressing all the points raised in the present observations.

THE NETHERLANDS: EUROPEAN PART OF THE KINGDOM

141. The Committee considered the fifteenth and sixteenth periodic reports of the Netherlands, submitted as one document (CERD/C/452/Add.3), at its 1634th and 1635th meetings (CERD/C/SR.1634 and 1635). At its 1641st meeting (CERD/C/SR.1641), held on 12 March 2004, it adopted the following concluding observations.

A. Introduction

142. The Committee welcomes the reports submitted by the State party and the additional oral and written information provided by the delegation. The Committee was encouraged by the attendance of a very large delegation and expresses its appreciation for the thorough responses provided to the questions asked.

B. Positive aspects

143. The Committee welcomes the fact that the extensive and detailed report of the State party is in conformity with the reporting guidelines and that it addresses the concerns and recommendations formulated by the Committee after the consideration of the previous report.

144. The Committee notes with satisfaction the recent adoption of the National Action Plan against Racism, dealing with the issues of the living environment, awareness raising and equal treatment in the labour market, in accordance with the Durban Declaration and Programme of Action.

145. The Committee welcomes the progress made towards the full implementation of article 4 of the Convention through the adoption of further amendments to the Criminal Code increasing the maximum penalties for structural forms of systematic racial discrimination.

146. The Committee welcomes the adoption of the bill of 10 February 2004 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and establishing a general framework for equal treatment in employment and occupation.

147. The Committee commends the fact that foreigners who have been legally resident in the Netherlands for five years are entitled to vote and to stand for local election.

148. The Committee also notes with satisfaction the establishment in 2001 of the Committee on the Employment of Women from Ethnic Minority Groups aimed at promoting participation of ethnic minority women in society and in the labour market.

149. The Committee notes with appreciation that the State party has ratified the amendments to article 8, paragraph 6, of the Convention.

C. Concerns and recommendations

150. The Committee is concerned about the occurrence in the State party of racist and xenophobic incidents, particularly of an anti-Semitic and "Islamophobic" nature, and of manifestations of discriminatory attitudes towards ethnic minorities.

> **The Committee encourages the State party to continue monitoring all tendencies which may give rise to racist and xenophobic behaviour and to combat the negative consequences of such tendencies. The Committee further recommends that the State party continue to promote general awareness of diversity and multiculturalism at all levels of education, paying particular attention to respect for the cultural rights of minorities, and pursue the effective implementation of measures to facilitate the integration of minority groups in Dutch society.**

151. While the Committee notes with satisfaction the State party's efforts aimed at combating racist propaganda and the spread of racist and xenophobic material on the Internet, including the forthcoming ratification of the Council of Europe Convention on Cybercrime and its Additional

Protocol, concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems, it is concerned at the sharp increase in the number of complaints received by the Dutch Complaints Bureau for Discrimination on the Internet (MDI).

The Committee encourages the State party to continue its efforts to combat this contemporary manifestation of racial discrimination and wishes to be informed of measures taken in this regard.

152. The Committee regrets that no reference is made in the report to article 3 of the Convention in relation to racial segregation and continues to express concern at the situation of de facto school segregation in some parts of the country.

In the light of its general recommendation XIX on the prevention, prohibition and eradication of racial segregation and apartheid, the Committee recalls that racial segregation can also arise without any initiative or direct involvement by the public authorities and encourages the State party to continue monitoring all trends which may give rise to racial or ethnic segregation and take measures to minimize the resulting negative consequences. Furthermore, the Committee invites the State party to provide in its next periodic report information on any action taken to address this issue.

153. The Committee notes that the Employment of Minorities Act (*Wet Samen*) ceased to be in force on 31 December 2003 and expresses concern about possible negative consequences that may ensue, given that the *Wet Samen* was the only legislative instrument containing regulations on the participation of ethnic minorities in the labour market and requiring employers to register the number of members of ethnic minorities employed by them.

The Committee recommends that the State party take adequate policy measures to ensure proper representation of ethnic minority groups in the labour market.

154. The Committee takes note of the Aliens Act 2000, which came into force on 1 April 2001, and welcomes the possibility that asylum-seekers can be granted a residence permit even after their claim has been rejected on judicial appeal, provided they are able to demonstrate objectively that they cannot return to their country. However, it is of the opinion that the criteria for any decisions by the authorities in this regard should be as clearly defined as possible, taking into account all aspects of the individual case. The Committee is also concerned about the possible risks which the Government's plan to return a very large number of failed asylum-seekers may entail, particularly with regard to respect for their human rights and the unity of their families.

The Committee requests the State party to ensure that its asylum procedures are in full conformity with international standards and, when proceeding with the return of asylum-seekers to their countries, to respect the principle of non-refoulement when there are substantial grounds for believing that there is a risk to their lives or physical integrity, as well as the principles of family unity and appropriate treatment of minors.

155. While the Committee notes with satisfaction the information that the number of police officers belonging to ethnic minorities has increased in recent years, it remains concerned about the high percentage of resignations among these groups.

The Committee encourages the State party to continue promoting the effective implementation of measures aimed at ensuring that the ethnic composition of the police appropriately reflects the ethnic composition of Dutch society and invites the State party to include in its next report statistical information in this respect.

156. The Committee invites the State party to envisage acceding to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

157. The Committee encourages the State party to continue consulting with organizations of civil society working in the area of combating racial discrimination during the preparation of the next periodic report.

158. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

159. The Committee recommends that the State party submit its seventeenth periodic report jointly with its eighteenth periodic report, due on 9 January 2007, and that it address all points raised in the present concluding observations.

SPAIN

160. The Committee considered the sixteenth and seventeenth periodic reports of Spain, submitted in one document (CERD/C/431/Add.7), at its 1616th and 1617th meetings (CERD/C/SR.1616 and 1617), held on 24 and 25 February 2004. At its 1638th meeting, held on 10 March 2004, it adopted the following concluding observations.

A. Introduction

161. The Committee welcomes the report submitted by the State party and the updating oral and written information provided by the delegation. The Committee acknowledges that the report has addressed many of the concerns and recommendations formulated by the Committee following the consideration of the previous State party's report.

162. The Committee also welcomes the attendance of a large delegation and expresses appreciation for the constructive responses provided to the questions raised.

B. Positive aspects

163. The Committee welcomes the adoption of a series of measures aimed at controlling and promoting legal immigration. In this connection, the Committee welcomes:

(a) The comprehensive programme for the coordination and regulation of immigration to Spain (GRECO programme);

(b) The establishment of the Council on Immigration Policy;

(c) The establishment of the Forum for the Social Integration of Immigrants, with the participation of migrants' associations and social support organizations;

(d) The establishment of the Immigration Monitoring Centre.

164. Furthermore, the Committee welcomes the recent incorporation in Spain's national legislation of anti-discrimination directives 2000/43 (European Race Directive) and 2000/78 (Equality Framework Directive), respectively implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and establishing a general framework for equal treatment in employment and occupation. In this connection, the Committee also notes with satisfaction the immediate follow-up to this incorporation with the creation of the Council for the Promotion of the Equality of Treatment and Non-Discrimination of Persons Irrespective of Racial or Ethnic Origin.

165. The Committee commends the introduction of the concept of Crimes Against Humanity under article 607 bis of the Penal Code as well as the inclusion among the elements of such crimes of acts committed, inter alia, for racial or ethnic reasons. It also notes with satisfaction the introduction under article 174 of the Penal Code of discriminatory motive as an element in the crime of torture.

166. The Committee also welcomes the measures and programmes implemented to combat trafficking in persons and international prostitution, including the adoption of a plan of action to counter the sexual exploitation of minors.

167. The Committee equally notes with satisfaction the extensive measures taken in the social, economic, cultural and other spheres in connection with the gypsy community, including inter alia:

(a) The further implementation of the Gypsy Development Programme, aimed at promoting access for members of the gypsy community - on terms of equality with the rest of the population - to public education, health, housing, employment;

(b) The National Plan of Action for Social Inclusion identifying the gypsy community as a specific beneficiary group;

(c) The Gypsy Education Group aimed at improving the current situation regarding education for gypsy children and young people.

C. Concerns and recommendations

168. The Committee takes note of the State party's view on protection of personal data that statistics on the number of persons of each race or ethnicity can give rise to discrimination.

In the light of the absence of statistical data on the ethnic composition of Spanish society, the Committee recommends that the State party provide an estimate of the demographic composition of the population in subsequent reports, as requested in

paragraph 8 of the reporting guidelines, and draws the attention of the State party to its general recommendation VIII concerning the self-identification of members of particular racial and ethnic groups.

169. While the Committee notes the continuous efforts undertaken by the State party to combat racial discrimination, including the recent creation of the Spanish Observatory for Racism and Xenophobia, it is concerned about the occurrence of racist and xenophobic incidents and the re-emergence of discriminatory attitudes, especially towards gypsies, North Africans, Muslims and Latin Americans.

The Committee encourages the State party to continue monitoring all tendencies which may give rise to racist and xenophobic behaviour and to combat the negative consequences of such tendencies. The Committee further recommends that the State party continue to promote at all levels of education general awareness of diversity and multiculturalism and put into practice effective measures to facilitate the integration of minority groups in Spanish society.

170. Concern is also expressed about allegations received of instances of police misbehaviour towards ethnic minorities or persons of non-Spanish origin, including abusive and insulting speech, ill-treatment and violence.

The Committee draws the State party's attention to its general recommendation XIII on the training of law enforcement officials in the protection of human rights and recalls that law enforcement officials should receive intensive training to ensure that in the performance of their duties they respect and protect human dignity and maintain and uphold the human rights of all persons without distinction as to race, colour or national or ethnic origin.

171. The Committee notes that legislative changes have been introduced to the Aliens Act, which may allegedly restrict the process of regularization of irregular immigrants. The Committee expresses concern about the resulting increase in the number of irregular immigrants and the negative consequences for the enjoyment of their rights.

The Committee recommends that the State party, while favouring the regular channels of migration, take appropriate measures to guarantee that adequate avenues for regularization are available to foreigners residing in Spain in an irregular situation. It also recommends that the State party ensure the enjoyment of human rights for all foreigners in the country, whether documented or undocumented, regular or irregular. In this respect, the Committee also invites the State party to envisage the signature and ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which sets out a series of human rights for all migrant workers and members of their families, whether in a regular or irregular situation.

172. While the Committee commends the ongoing cooperation between the State party and the United Nations High Commissioner for Refugees as well as the commitment of the State party to improve the country's asylum system by transposing into Spanish law, by

February 2005, European Union Directive 2003/9, laying down minimum standards for the reception of asylum-seekers, it is concerned about the poor conditions encountered by asylum-seekers due to the overcrowding of reception centres, in particular in Ceuta and the Canary islands.

> **The Committee recommends that the State party take adequate measures necessary to improve the situation of asylum-seekers, especially in Ceuta and in the Canary islands. It also invites the State party to provide further information on this issue in its next periodic report.**

173. While the Committee warmly welcomes the 2003 Memorandum of Understanding between Spain and Morocco on assistance in the repatriation of unaccompanied foreign children, it expresses concern about the situation of these children, particularly in relation to the poor conditions in the reception centres for minors (especially in Ceuta and Melilla).

> **The Committee recommends that the State party take all necessary measures to improve the conditions in reception centres for minors and ensure respect for the existing laws so that regular procedures in the expulsion of unaccompanied foreign children are carried out. The Committee also invites the State party to provide clarification on the issue of the reported reduction of the age of majority from 18 to 16 years for the purpose of expulsion.**

174. With respect to article 5 of the Convention, while the Committee notes with satisfaction the extensive measures taken by the State party in order to improve the overall situation of gypsies, it is concerned about the difficulties still faced by a large part of them in the fields of employment, housing and education, as well as about reported cases of discrimination in daily life.

> **The Committee draws the attention of the State party to its general recommendation XXVII on discrimination against Roma (gypsies) and recommends that the State party take all necessary measures with a view to promoting tolerance and overcoming prejudices and negative stereotypes in order to avoid any form of discrimination against members of the Roma (gypsy) community.**

175. With respect to article 6 of the Convention, the Committee welcomes the inclusion in the State party's report of examples of judgements issued by courts applying criminal legislation to cases of racial discrimination. However, in order to have a more comprehensive view of the matter, the Committee requests that the State party include in its next periodic report statistical information on prosecutions launched, and penalties imposed, in cases of offences which relate to racial discrimination, and where the relevant provisions of the existing domestic legislation have been applied.

176. The Committee strongly recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194, in which the General Assembly strongly urges States parties to accelerate

their domestic ratification procedures with regard to the amendment, and to notify the Secretary-General expeditiously in writing of their agreement to the amendment. A similar appeal has been reiterated by General Assembly resolution 58/160.

177. The Committee encourages the State party to consult with organizations of civil society working in the area of combating racial discrimination during the preparation of the next periodic report.

178. The Committee recommends that the State party continue to make the reports readily available to the public from the time they are submitted and that it similarly publicize the observations of the Committee on these reports.

179. The Committee recommends that the State party submit its eighteenth periodic report jointly with its nineteenth and twentieth periodic reports, due on 4 January 2008, and that it address all points raised in the present concluding observations.

SURINAME

180. The Committee considered the first to tenth periodic reports of Suriname, submitted as a single document (CERD/C/446/Add.1), at its 1614th and 1615th meetings (CERD/C/SR.1614 and 1615) on 23 and 24 February 2004. At its 1636th and 1637th meetings, held on 9 and 10 March 2004, it adopted the following concluding observations.

A. Introduction

181. The Committee welcomes the initial report of Suriname and the opportunity that it affords for engaging in dialogue with the State party. It is pleased that the Government was represented by a high-ranking delegation, and acknowledges the oral and written responses that the delegation provided.

182. The Committee takes note with satisfaction of the efforts made by the State party to comply with its guidelines regarding the form and contents of reports, and in particular of the information provided on the ethnic composition of the population. It does, however, regret that the initial report as a whole does not contain sufficient information on the practical application of the Convention.

183. The Committee also regrets that the initial report was submitted 18 years after its due date. It invites the State party to respect the intervals suggested by the Committee for the submission of its future reports.

B. Positive aspects

184. The Committee notes with satisfaction that, under the constitutional arrangements in force in the State party, the Convention takes priority over domestic legislation.

185. The Committee welcomes the fact that the definition of racial discrimination under domestic law is consistent with article 1 of the Convention.

186. The Committee notes with satisfaction that the State party's criminal law is broadly consistent with the requirements of article 4 (a) of the Convention.

187. The Committee notes with interest the State party's assurance that the number of Maroons and indigenous people who have senior positions in the community is increasing steadily, although there still is a great deal to be achieved.

C. Matters of concern and recommendations

188. The Committee regrets that the long-awaited Constitutional Court, which the State party describes as an essential mechanism for the protection of human rights, in particular in the area of the Convention, has still not been created.

> **The Committee invites the State party to establish the Constitutional Court as soon as possible.**

189. As regards the prohibition of organizations fomenting racial discrimination, the Committee points out that the laws of Suriname do not meet the requirements of article 4 (b) of the Convention.

> **The Committee recommends that the State party draft a law declaring illegal and banning such organizations.**

190. The Committee is concerned that, more than 10 years after the 1992 Peace Accord, the State party has not adopted an adequate legislative framework to govern the legal recognition of the rights of indigenous and tribal peoples (Amerindians and Maroons) over their lands, territories and communal resources.

> **While noting the principle set forth in article 41 of the Constitution that natural resources are the property of the nation and must be used to promote economic, social and cultural development, the Committee points out that this principle must be exercised consistently with the rights of indigenous and tribal peoples. It recommends legal acknowledgement by the State party of the rights of indigenous and tribal peoples to possess, develop, control and use their communal lands and to participate in the exploitation, management and conservation of the associated natural resources.**

191. The Committee notes the efforts made by the State party, to some degree, to reconcile the State's title to the country's natural resources with the rights of indigenous and tribal peoples, in particular by means of the 1992 Peace Accord. It nevertheless observes that the Accord is not clear on this issue, and has not been put into effect.

> **The Committee recommends urgent action by the State party in cooperation with the indigenous and tribal peoples concerned to identify the lands which those peoples have traditionally occupied and used. It would welcome more detailed information on the membership, terms of reference, modes of operation and financial and human resources at the disposal of the Council for the Development of the Interior which, under the terms of the Peace Accord, is required to assist in the land demarcation process.**

192. While also noting the State party's assertion that there are mechanisms guaranteeing that indigenous and tribal peoples are notified and consulted before any forestry or mining concessions within their lands are awarded, the Committee is disturbed at reports that consultation of that kind is rare.

> **The Committee invites the authorities to check that the established mechanisms for notifying and consulting the indigenous and tribal peoples are working, and recommends that the State party strive to reach agreements with the peoples concerned, as far as possible, before awarding any concessions.**

193. The Committee notes that, under the draft Mining Act, indigenous and tribal peoples will be required to accept mining activities on their lands following agreement on compensation with the concession holders, and that if agreement cannot be reached, the matter will be settled by the executive, and not the judiciary. More generally, the Committee is concerned that indigenous and tribal peoples cannot as such seek recognition of their traditional rights before the courts because they are not recognized legally as juridical persons.

> **The Committee recommends that indigenous and tribal peoples should be granted the right of appeal to the courts, or any independent body specially created for that purpose, in order to uphold their traditional rights and their right to be consulted before concessions are granted and to be fairly compensated for any damage.**

194. The Committee notes with concern complaints by indigenous and tribal peoples in the interior about the deleterious effects of natural-resource exploitation on their environment, health and culture. It regrets that the State party does not seem to have attached the highest priority to dealing with the problem of mercury contamination in parts of the interior.

> **The Committee wishes to point out that development objectives are no justification for encroachments on human rights, and that along with the right to exploit natural resources there are specific, concomitant obligations towards the local population; it recommends adoption by the State party of a legislative framework that clearly sets forth the broad principles governing the exploitation of the land, including the obligation to abide by strict environmental standards. It recommends the State party to set up an independent body to conduct environmental impact surveys before any operating licences are issued, and to conduct health and safety checks on small-scale and industrial gold-mining.**

195. The Committee is disturbed at reports of growing sexual exploitation of children and the rape of girls belonging to indigenous and tribal peoples in regions where mining and forestry operations have developed.

> **The Committee recommends that the State party take the necessary measures to ensure that those responsible are prosecuted.**

196. The Committee is concerned at information about the spread of sexually transmitted diseases such as HIV/AIDS amongst indigenous and tribal people, in connection with the expansion of mining and forestry operations in the interior of the country.

> **The Committee recommends that the State party introduce a plan of action to combat AIDS in the interior.**

197. The Committee expresses surprise at the State party's statement that the Maroons and Amerindians have never officially complained about the effects of natural-resource exploitation.

> **The Committee recommends that an information campaign be directed to the indigenous and tribal peoples, informing them what remedies are available for upholding their rights and interests, and that investigations take place whenever the State party receives reports that the rights of indigenous and tribal peoples have been flouted.**

198. The Committee is disturbed at the continuing lack of health and education facilities and utilities available to indigenous and tribal peoples. It regrets that no special measures have been taken to secure their advancement on the grounds that there are no available data suggesting that they need special protection.

> **The Committee recommends that greater efforts be undertaken by the State party, in particular as regards the education plan of action for the interior. It also recommends the inclusion in agreements with large business ventures - in consultation with the peoples concerned - of language specifying how those ventures will contribute to the promotion of human rights in areas such as education.**

199. The Committee welcomes the delegation's statement that the 1992 Amnesty Act did not terminate the proceedings concerned with human rights violations committed during the civil strife of 1985-1991, including the 1986 Moiwana massacre. It is, however, disturbed that the inquiries into those events have still not reached a conclusion.

> **The Committee recommends the State party to attach high priority to ensuring that those guilty of human rights violations during the civil war do not go unpunished, and that the victims are offered appropriate compensation as swiftly as possible.**

200. While noting the State party's legitimate desire to ensure that the official language is taught and to promote the teaching of Spanish and English, the Committee is disturbed at the lack of plans to preserve the native languages of the country's indigenous and tribal peoples. It is also concerned that Sranan Tongo, which is spoken by the majority of the population, is not given sufficient prominence in education.

> **The Committee invites the State party to encourage the learning of mother tongues, in particular Sranan Tongo, with a view to preserve the cultural and linguistic identity of the various ethnic groups.**

201. The Committee notes that the authorities appear to limit themselves to not hampering the exercise by the various ethnic groups and their members of their cultural rights.

> **The Committee recommends that the State party should respect and promote the indigenous and tribal peoples' cultures, languages and distinctive ways of life. It encourages the authorities to carry out a survey, in collaboration with the groups concerned, of the impact of economic development in the indigenous and tribal peoples' lands on their collective and individual cultural rights.**

202. The Committee draws the State party's attention to its general recommendation XXIII (1997) on the rights of indigenous peoples, and reminds it of the relevance of International Labour Organization Convention No. 169 concerning indigenous and tribal peoples to Suriname's particular circumstances.

> **The Committee would welcome further information on the general discussion of the substance of that Convention, which was mentioned in the 1992 Peace Accord, and the outcome. It encourages the State party to consider ratifying the Convention as quickly as possible.**

203. The Committee is concerned about reports that the process of voluntary repatriation and reintegration of Surinamese refugees in French Guyana has not been completed for many Maroon men, leaving their wives and children in deep poverty.

> **The Committee would like detailed information on this issue.**

204. The Committee takes note of the State party's desire to respect the marriage customs of various ethnic groups, its efforts to establish a uniform age of consent at 18 years, and to ban marriages to which the woman does not consent. On this point, it observes that the 1973 Marriage Act came into force in June 2003.

> **The Committee recommends continued efforts by the State party to ensure that the rights of women are respected, irrespective of the community they belong to, especially where marriage is concerned. It calls for detailed information on the marriage rules and practices that apply in the indigenous and tribal communities.**

205. In applying the Convention, in particular articles 2 to 7, under domestic law, the Committee advises the State party to take account of the relevant parts of the Durban Declaration and Plan of Action, and to provide information in its next periodic report on plans of action and other steps it has taken to give effect to the Durban Declaration and Plan of Action at the national level.

206. The Committee strongly recommends that the State party ratify the amendment to article 8, paragraph 6, of the Convention adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in resolution 47/111. It refers in this connection to General Assembly resolution 57/194, which strongly urges States parties to the Convention to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment. A similar appeal has been reiterated by the General Assembly in its resolution 58/160.

207. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention, and recommends that it consider the possibility of doing so.

208. The Committee recommends that the State party's reports be made readily available to the public and that the observations of the Committee on these reports be similarly publicized.

209. The Committee invites the State party to take advantage of the technical assistance available under the advisory services and technical assistance programme of the Office of the United Nations High Commissioner for Human Rights for the purpose of drafting a framework law on the rights of indigenous and tribal peoples that addresses the Committee's concerns set out above.

210. The Committee recommends that the State party submit its eleventh and twelfth periodic reports in a single document due by 14 April 2007, and respond all the points raised in these concluding observations.

SWEDEN

211. The Committee considered the fifteenth and sixteenth periodic reports of Sweden, which were due on 5 January 2001 and 2003 respectively, submitted as one document (CERD/C/452/Add.4), at its 1618th and 1619th meetings (CERD/C/SR.1618 and 1619), held on 25 and 26 February 2004. At its 1638th meeting (CERD/C/SR.1638), held on 10 March 2004, it adopted the following concluding observations.

A. Introduction

212. The Committee welcomes the report submitted by the State party in a timely fashion, and the additional oral and written information provided by the delegation. It expresses its satisfaction at the progress reported and the information that non-governmental organizations were consulted in the preparation of the report. The Committee further acknowledges the quality of the report, which is in conformity with the reporting guidelines of the Committee, and expresses its appreciation for the constructive responses of the delegation to the questions raised during the consideration of the report.

B. Positive aspects

213. The Committee commends the adoption, in February 2001, of a National Action Plan to Combat Racism, Xenophobia, Homophobia and Discrimination as an important tool to implement the Durban Declaration and Programme of Action, and the adoption, in January 2002, of a National Plan of Action for Human Rights.

214. The Committee welcomes the adoption of a series of legislative measures undertaken by the State party to combat racial discrimination, including:

(a) The new Prohibition of Discrimination Act, which entered into force on 1 July 2003. The Committee takes note with satisfaction that the new Act broadens the scope of protection against ethnic discrimination, requires the complainant to establish only a prima facie case of discrimination and extends the field of supervision of the Ombudsman against Ethnic Discrimination;

(b) The new Group Proceedings Act, which entered into force on 1 January 2003, providing the possibility, in specific circumstances, of instituting class action suits in cases of alleged discrimination;

(c) The amendments to the Fundamental Law on Freedom of Expression, which came into force in January 2003, which facilitates the bringing of legal action in cases of racial agitation;

(d) The new Act on Citizenship, which came into force on 1 July 2001, accepting the possibility of dual citizenship and facilitating the acquisition of Swedish citizenship for children of foreign background.

215. The Committee takes note with satisfaction of the creation in 2003, with State funding, of the Centre against Racism and Related Intolerance, consisting of more than 100 non-governmental organizations working in the field of racial discrimination.

216. The Committee is encouraged by the initiatives taken by the State party to increase knowledge of the Sami people among the general society, including the initiation of an information campaign.

C. Concerns and recommendations

217. The Committee takes note of the State party's position regarding the determination of the ethnic composition of the population, but remains concerned that such information has not been provided in the State party's report.

In view of the absence of statistical data on the ethnic composition of Swedish society, the Committee recommends that the State party provide an estimate of the demographic composition of the population in subsequent reports, as requested in paragraph 8 of the reporting guidelines, and draws the attention of the State party to its general recommendation VIII concerning the self-identification of members of particular racial and ethnic groups.

218. While the Committee takes note with satisfaction of the State party's efforts to combat hate crimes, it is concerned about allegations that few of these reported crimes have led to prosecutions and that the relevant domestic legal provisions are rarely applied.

The Committee recommends that the 2002 instruction addressed to public prosecutors by the Office of the Prosecutor General to give priority to these kinds of crimes be actively implemented and that the relevant criminal law provisions be effectively applied. It recommends that the State party provide statistical information on prosecutions launched, and penalties imposed, in cases of offences which relate to hate crimes and where the relevant provisions of the existing domestic legislation have been applied.

219. While the Committee welcomes the new Equal Treatment of Students in Higher Education Act, which entered into force on 1 March 2002 and which contains prohibitions on direct and indirect ethnic discrimination against students and applicants in the field of higher education, it takes note that the Act is reportedly not being implemented with respect to some Swedish universities.

> **The Committee invites the State party to provide an assessment of the implementation of the new Act.**

220. The Committee takes note of the fact that the State party continues to uphold its interpretation of the provisions of article 4 of the Convention, maintaining that criminal acts committed by the members or supporters of a racist organization may be prohibited and penalized by law, but not the existence of, and participation in, racist organizations.

> **The Committee draws the State party's attention to its general recommendation XV according to which all provisions of article 4 of the Convention are of a mandatory character, including declaring illegal and prohibiting all organizations promoting and inciting racial discrimination, as well as recognizing participation in such organizations as an offence punishable by law. Accordingly, the Committee recommends that the State party reconsider its position and adopt the necessary legislation in order to ensure full compliance with article 4 (b) of the Convention.**

221. While the Committee acknowledges with satisfaction the initiatives taken by the State party to improve the situation of the Roma, such as the establishment of a Council for Roma Issues in 2002 as an advisory body to the Government, it remains concerned about the difficulties still faced by a large part of the Roma community in areas such as employment, housing and education.

> **The Committee draws the attention of the State party to its general recommendation XXVII on discrimination against Roma and encourages the State party to intensify its efforts to implement national strategies and programmes in these areas, including the biennial strategic programme of the Ombudsman against Ethnic Discrimination, with a view to improving the situation of the Roma and their protection against discrimination.**

222. While the Committee welcomes the appointment in 2002 of the Boundary Commission to formulate proposals for the definition of the boundaries for Sami reindeer-breeding areas by the end of 2004 as an important step towards securing the rights of the Sami people, it remains concerned that issues related to Sami land rights remain unresolved.

> **In the light of general recommendation XXIII on the rights of indigenous peoples, the Committee encourages the State party to ensure that the Boundary Commission fulfils its task within the scheduled time. Consequently, it also recommends that the State party introduce adequate legislation, in consultation with the Sami people, regarding the findings of the Boundary Commission, in order to remove the legal uncertainty relating to Sami land rights.**

223. The Committee notes that the State party has so far not been in a position to ratify the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization. In this connection, it takes note of the State party's observation that in order for ratification to be possible, it is necessary to define at least the outer boundaries for reindeer husbandry more clearly than at present.

The Committee invites the State party to accelerate all preliminary work in order to proceed with the ratification of the Convention as swiftly as possible.

224. The Committee notes the allegations that in cases of land disputes between Sami and non-Sami in courts of law, the interests of the non-Sami frequently override those of the Sami, and that the latter are allegedly not provided with financial means to support litigation in respect of their rights to land.

The Committee requests that the State party provide information on this issue, as well as information on the outcome of cases related to these claims and the compensation granted, if any.

225. The Committee takes note of the Special Control of Foreigners Act, which allows the Government to expel a foreigner if this is deemed necessary to the security of Sweden or if there are reasons to suspect that he or she will commit or participate in crimes involving violence, threats or coercion for political purposes, without the possibility of appealing against such decisions.

While acknowledging the State party's national security concerns, the Committee reminds the State party of the need to balance those concerns with its human rights obligations. In this regard, it draws the State party's attention to the Committee's statement on terrorism and human rights of 8 March 2002 in which it underlines the obligation of States to "ensure that measures taken in the struggle against terrorism do not discriminate in purpose or effect on grounds of race, colour, descent, or national or ethnic origin". The Committee invites the State party to reconsider the Act to the extent that it provides for the possibility of expulsion without a right of appeal, and to provide additional information on this issue in its next periodic report.

226. While the Committee is encouraged by the State party's affirmation that Sweden is a country of immigration and that integration policies to counteract the social exclusion experienced by some persons born abroad are a priority, it remains concerned at the persistence of discriminatory attitudes faced by persons of immigrant origin in certain areas, such as the labour market, housing and access to public services.

The Committee encourages the State party to pursue and strengthen its efforts in these areas, in accordance with article 5 (e) and (f) of the Convention.

227. The Committee encourages the State party to continue to consult with organizations of civil society working in the area of combating racial discrimination during the preparation of the next periodic report.

228. The Committee recommends that the State party disseminate widely information on the domestic remedies available against acts of racial discrimination, on the legal avenues to obtain compensation in cases of discrimination, and on the individual complaints procedure under article 14 of the Convention accepted by Sweden.

229. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

230. The Committee recommends that the State party submit its seventeenth periodic report jointly with its eighteenth periodic report, due on 5 January 2007, as an updating report addressing all points raised in the present concluding observations.

ARGENTINA

231. The Committee considered the sixteenth to eighteenth periodic reports of Argentina, which were due on 4 January 2000, 2002 and 2004, respectively, submitted as one document (CERD/C/476/Add.2), at its 1656th and 1657th meetings (CERD/C/SR.1656 and 1657), held on 10 and 11 August 2004. At its 1668th meeting (CERD/C/SR.1668), held on 18 August 2004, it adopted the following concluding observations.

A. Introduction

232. The Committee welcomes the report submitted in a timely fashion by the State party and the additional oral and written information provided by the delegation.

233. The Committee acknowledges the difficult economic situation recently experienced by the State party.

234. While the Committee welcomes the efforts made by the State party to comply with the Committee's guidelines for the preparation of reports, it notes that the report has not addressed some of the concerns and recommendations raised in the Committee's previous concluding observations.

B. Positive aspects

235. The Committee welcomes the entry into force of Immigration Law No. 25871 in January 2004, which replaces the former Immigration Law No. 22439, and provides, inter alia, for the following:

(a) The right to migrate as an essential and inalienable right;

(b) Migrants' access to basic rights such as education and health irrespective of their migration status;

(c) That migrants may only be expelled pursuant to a judicial order; and

(d) The criminalization of trafficking in human beings.

236. The Committee welcomes the ongoing efforts made by the State party to elaborate a national plan against discrimination, xenophobia and other forms of intolerance, with the support of UNDP and OHCHR, as a follow-up to the Durban Declaration and Programme of Action, and in particular welcomes the highly participatory process in which the plan is being developed.

237. The Committee also welcomes the State party's recent signature of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the assurances given by the State party's representative that ratification is envisaged.

C. Concerns and recommendations

238. The Committee is concerned about the absence of statistical data on the demographic composition of the population in the State party's report. The Committee recalls that such information is necessary for an assessment of the implementation of the Convention as well as for the monitoring of policies in favour of minorities and indigenous peoples.

> **The Committee requests the State party to publish the results of the 2001 census, which, inter alia, took into account information on indigenous peoples, and complete the complementary 2003 survey on indigenous peoples as soon as possible. Furthermore, in the light of paragraph 8 of the reporting guidelines and general recommendations IV and XXIV, the Committee recommends that the State party include in its next periodic report information on the demographic composition of the population, including information on indigenous peoples and minorities, such as Afro-Argentinians and Roma.**

239. The Committee regrets the lack of adequate information in the State party's report on complaints regarding acts of racial discrimination and the corresponding legal action taken by, and on behalf of, victims, including alleged complaints of violent racist attacks and acts of police brutality committed on racial grounds.

> **The Committee requests the State party to include in its next periodic report disaggregated statistical information on investigations and prosecutions launched and penalties imposed in cases of offences which relate to racial discrimination and where the relevant provisions of the existing domestic legislation have been applied, including violent racist attacks and alleged offences committed by law enforcement personnel. In this regard, the Committee recalls its general recommendation XIII on the training of law enforcement officials in the protection of human rights and encourages the State party to improve the training of law enforcement officials so that the standards of the Convention are fully implemented.**

240. While encouraged by the fact that the National Institute against Discrimination (INADI) was recognized as an autonomous body in 2002, the Committee notes with concern that its funding has been severely reduced.

> **The Committee recommends that the State party take adequate measures to strengthen the functioning of INADI, to reinforce its effectiveness in monitoring all tendencies that may give rise to racist and xenophobic behaviour and to combat all forms of racial discrimination and investigate complaints in this regard.**

241. While the Committee welcomes the new Immigration Law No. 25871, it takes note that enacting measures still need to be adopted.

> **The Committee calls upon the State party to enact measures to implement the law without delay, taking full account of the principle of non-discrimination. The Committee furthermore recommends that the State party conduct a public information and awareness-raising campaign and provide training courses for all governmental authorities at the national, provincial and municipal levels on the changes contained in the new law.**

242. While the Committee welcomes the State party's efforts to elaborate a national plan against discrimination, xenophobia and other forms of intolerance, it takes note of the possible difficulties that may arise during the implementation of such a plan.

> **The Committee recommends that the State party foster support for the plan at the national and provincial levels, devote adequate financial resources for its fulfillment, and ensure that the plan is integrated with other mechanisms for the implementation of human rights in Argentina and translated into effective policies.**

243. While taking note with satisfaction of the assurances given by the State party regarding its plan to intensify the human rights training of border and immigration officials, the Committee is concerned about reported cases of refoulement of refugees and allegedly unfair refugee status determination procedures. In this connection, the Committee observes that, while the State party generally endeavours to follow the standards of the Convention relating to the Status of Refugees, but within a more limited legislative framework, there is no comprehensive law dealing with the protection of refugees. Furthermore, the Committee takes note that no information has been provided on the existence of policies and programmes to facilitate the socio-economic integration of refugees and asylum-seekers in the State party.

> **The Committee calls upon the State party to increase its efforts to fully respect article 5 (b) of the Convention and the principle of non-refoulement and improve refugee protection conditions and safeguards, including interpretation facilities, particularly at airports and other border points. It also urges the State party to ensure that new legislation is adopted that addresses eligibility for refugee status and the rights of refugees and specifies the refugee status determination procedures and rights of review. The Committee recommends that the State party provide further information in this regard in its next periodic report.**

244. The Committee is disturbed by reports of trafficking of migrants, particularly migrant women exploited as sexual workers.

> **The Committee urges the State party to develop comprehensive policies and allocate adequate resources to prevent, investigate and punish these crimes, as well as to provide assistance and support to victims, and recommends that the State party provide further information on the vulnerable situation of migrants and indigenous women in its next periodic report.**

245. The Committee is concerned about incidents of incitement to racial hatred and racist propaganda in the media, including on the Internet.

The Committee recalls that article 4 of the Convention is applicable to the phenomenon of racism in the media, including on the Internet, and that the fundamental principle of respect for human dignity requires all States to combat dissemination of racial hatred and incitement to racial hatred. It recommends that the State party take appropriate measures to combat racist propaganda in the media and that it provide in its next periodic report information on the development of the situation and measures taken in this field.

246. The Committee is concerned about the State party's failure to enact the necessary legislation to implement the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169). The Committee further notes reported difficulties in recognizing the legal personality of indigenous peoples, the inadequate protection in practice of indigenous peoples' ownership and possession of ancestral lands and the consequential impairment of indigenous peoples' ability to practise their religious beliefs.

In the light of its general recommendation XXIII, the Committee urges the State party to: fully implement ILO Convention No. 169; adopt, in consultation with indigenous peoples, a general land tenure policy and effective legal procedures to recognize indigenous peoples' titles to land and to demarcate territorial boundaries; adopt measures to safeguard indigenous rights over ancestral lands, especially sacred sites, and compensate indigenous peoples for land deprivation; ensure access to justice, as well as recognize effectively the legal personality of indigenous peoples and their communities in their traditional way of life, and respect the special importance for the culture and spiritual values of indigenous peoples of their relationship with the land.

247. The Committee remains concerned about the insufficient information provided by the State party on the representation of indigenous peoples and minorities in the civil service at the federal, provincial and municipal levels, the police, the judicial system, Congress and other public institutions.

The Committee requests the State party to include in its next periodic report detailed information on the representation of indigenous peoples and minority groups in the public administration.

248. The Committee takes note that the Coordinating Council of Argentine Indigenous Peoples envisaged by Act No. 23,302 to represent indigenous peoples in the National Institute of Indigenous Affairs has still not been established.

The Committee recalls its general recommendation XXIII on the rights of indigenous peoples, which calls upon States parties to ensure that no decisions directly relating to the rights and interests of indigenous peoples are taken without their informed consent, and urges the State party to ensure that the Council is established as soon as possible and that sufficient funds are allocated for the effective functioning of the Council and the Institute.

249. The Committee regrets that despite the State party's efforts, the right to a bilingual and intercultural education for indigenous peoples recognized by the Constitution is not fully respected in practice. It takes note with concern of allegations regarding the lack of adequate training provided to indigenous teachers and discrimination faced by them, as well as the insufficient measures to preserve indigenous languages and to include the history and culture of indigenous peoples in school curricula.

> **The Committee recommends that the State party adopt all necessary measures to ensure, in consultation with the indigenous communities, a bilingual and intercultural education for indigenous peoples with full respect for their cultural identity, languages, history and culture, bearing also in mind the wider importance of intercultural education for the general population. It further recommends that adequate training be provided to indigenous teachers and effective measures be adopted to combat all forms of discrimination against them. The Committee also requests the State party to provide information on the number and percentage of indigenous children taught in primary and secondary schools, including bilingual schools.**

250. The Committee reiterates its concern about the State party's failure to provide information on the extent to which indigenous peoples enjoy economic, social and cultural rights, particularly in the light of the recent economic and social crisis. It also reiterates its concern at the lack of a social security system that takes into account the specific needs of indigenous peoples.

> **The Committee reiterates its request to the State party to include detailed information on these issues in its next periodic report, including measures taken to ensure the effective enjoyment of economic, cultural and social rights.**

251. The Committee remains concerned at the slow pace of the proceedings relating to the 1992 and 1994 attacks in Buenos Aires on the Israeli Embassy and the Argentine-Jewish Mutual Association.

> **The Committee recommends that, in accordance with article 6 of the Convention, these proceedings be completed by the State party as a matter of urgency so as to comply with its obligation to ensure the right to just and adequate reparation and compensation for damage suffered as a result of human rights violations.**

252. The Committee notes the reiterated assurances given by the State party that it is in the process of completing the preparatory steps towards making the optional declaration provided for in article 14 of the Convention, and urges the State party to complete these steps as soon as possible with a view to making this declaration.

253. The Committee recommends that the State party consult with organizations of civil society working in the area of combating racial discrimination during the preparation of the next periodic report.

254. The Committee recommends that the reports of the State party be made public as soon as they are submitted to the Committee, and that the concluding observations of the Committee on these reports be widely publicized.

255. The Committee strongly recommends to the State party that it should ratify the amendment to article 8, paragraph 6, of the Convention adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment. A similar appeal was made by the General Assembly in resolution 58/160.

256. The Committee recommends that the State party submit its nineteenth and twentieth periodic report on 4 January 2008 and that the report address all points raised in the present concluding observations.

BELARUS

257. The Committee considered the fifteenth to seventeenth periodic reports of Belarus, submitted in one document (CERD/C/431/Add.9), at its 1649th and 1650th meetings (CERD/C/SR.1649 and 1650), held on 5 and 6 August 2004. At its 1667th meeting (CERD/C/SR.1667), held on 18 August 2004, it adopted the following concluding observations.

A. Introduction

258. The Committee welcomes the report submitted by the State party and the opportunity to resume its dialogue with the State party in a constructive manner. Furthermore, the Committee takes note that the report addresses some of the concerns and recommendations set forth by the Committee relating to the fourteenth periodic report. However, it notes the lack of sufficient information in the report on the practical implementation of the Convention.

B. Positive aspects

259. The Committee notes with satisfaction the State party's accession in 2001 to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, as well as the adoption of implementing legislation.

260. The Committee notes with appreciation the information provided by the delegation on the preparation of a draft national plan of action on the follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

261. The Committee notes with appreciation the State party's efforts to adopt new legislation in compliance with the standards set by international human rights instruments, in particular, the standards set by the Convention.

262. The Committee welcomes the State party's efforts to include human rights education in school curricula.

C. Concerns and recommendations

263. The Committee draws the attention of the State party to racist and xenophobic incidents in Belarus.

> **The Committee encourages the State party to continue to monitor all tendencies that give rise to racist and xenophobic behaviour and to combat the negative consequences of such tendencies. The Committee also recommends that the State party intensify its efforts to ensure to everyone within its jurisdiction effective protection and remedies against acts of racial discrimination.**

264. The Committee expresses concern over the dissemination of racist, discriminatory and xenophobic, in particular, anti-Semitic propaganda on the Internet, while acknowledging the efforts undertaken by the State party to curtail such phenomena.

> **While reminding the State party of its obligation to respect the right to freedom of opinion and expression when implementing article 4 of the Convention in the context of the Committee's general recommendation XV, the Committee recommends to the State party that it strengthen its efforts to combat racist propaganda on the Internet. The Committee further requests that the State party provide in its next periodic report detailed information on measures taken in this field.**

265. While acknowledging the awareness-raising efforts made by the State party, the Committee notes with concern that Belarus is a country of transit for the trafficking of women and girls for the purpose of sexual exploitation.

> **The Committee recommends to the State party that it reinforce ongoing efforts to prevent and combat trafficking and provide support and assistance to victims, wherever possible in their own language. Furthermore, the Committee urges the State party to make determined efforts to prosecute the perpetrators and underlines the paramount importance of prompt and impartial investigations.**

266. With respect to article 5, the Committee reiterates its regrets regarding the lack of information on the situation of minority groups and their enjoyment of all human rights. In particular, it notes the paucity of information on the Roma.

> **The Committee renews its request that the State party include detailed information in its next periodic report on the situation of minority groups, in particular Roma. In this connection, the Committee draws the attention of the State party to its general recommendation XXVII and encourages it to adopt or make more effective legislation prohibiting discrimination in employment and all discriminatory practices in the labour market affecting members of Roma communities and to protect them against such practices.**

267. The Committee regrets the paucity of information in the State party's report on the fundamental rights of non-citizens temporarily or permanently residing in Belarus, including stateless persons, refugees and migrant workers.

> **The Committee requests the State party to include further information on the enjoyment of rights by non-citizens residing in Belarus, in particular stateless persons, refugees and migrant workers, in its next periodic report. In this regard, the Committee draws the attention of the State party to its general recommendation XXX on discrimination against non-citizens and invites the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.**

268. While taking note of the legislative provisions providing for the right to effective protection and remedies in the State party, the Committee reiterates its concern over the lack of specific information and statistics on cases where the relevant provisions of domestic legislation concerning racial discrimination were applied.

> **The Committee requests that the State party include in its next periodic report statistical information on prosecutions launched, and penalties imposed, in cases of offences that relate to racial discrimination and where the relevant provisions of the existing domestic legislation have been applied. The Committee reminds the State party that the mere absence of complaints and legal action by victims of racial discrimination may be largely an indication of the absence of relevant specific legislation, a lack of awareness of the availability of legal remedies, or insufficient will by the authorities to prosecute. It is therefore essential to provide for the relevant provisions in national legislation and to inform the public of the availability of all legal remedies in the field of racial discrimination. The Committee also encourages the State party to continue its efforts to foster independence of the judiciary in the light of the findings of the special rapporteur on the independence of the judges and lawyers following his mission to Belarus in 2001 (see E/CN.4/2001/65/Add.1).**

269. The Committee notes that insufficient information was provided on the effective functioning of the national bodies and mechanisms whose mandate includes combating racial discrimination, in particular, the State Committee on Religious and Ethnic Affairs of the Council of Ministers of the Republic of Belarus and its regional executive committees and the Minsk municipal executive committees. The Committee further notes the lack of information on initiatives taken by the State party to establish a national human rights institution, despite the Committee's previous recommendation in this regard.

> **The Committee recommends that in its next periodic report, the State party provide additional information on the role, responsibilities, functioning and achievements of all institutions working in the area of racial discrimination. Furthermore, the Committee encourages the State party to consider the establishment of an independent national human rights institution, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (General Assembly resolution 48/134), to monitor and evaluate progress in the implementation of the Convention at the national and local levels.**

270. The Committee again expresses its regret that the State party has not provided sufficient information on measures taken to educate law enforcement officials, members of political parties and media professionals on the provisions of the Convention.

> **The Committee encourages the State party to expand and strengthen the existing efforts in human rights education beyond the school system in order to promote understanding and tolerance among all racial and ethnic groups in society. In this regard, particular attention should be paid to general recommendation XIII, according to which law enforcement officials should receive intensive training to ensure that, in the performance of their duties, they respect and protect the human rights of all persons without distinction as to race, colour or national or ethnic origin.**

271. The Committee notes the lack of sufficient information on efforts taken by the State party to involve non-governmental organizations in the preparation of the periodic report and expresses concern over the restrictions placed by the authorities on civil society organizations, including organizations working to combat racial discrimination.

> **The Committee underlines the importance of the role of civil society in the full implementation of the Convention and recommends that the State party remove all legal, practical and administrative obstacles to the free functioning of civil society organizations that contribute to promoting human rights and combating racial discrimination. Furthermore, the Committee recommends that they be consulted during the preparation of the next periodic report.**

272. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention, despite the assurances given to the Committee in 1997 that it was considering so doing. The Committee strongly recommends that the State party consider the possibility of making the declaration.

273. The Committee strongly recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment. A similar appeal was reiterated by the General Assembly in resolution 58/160.

274. The Committee recommends that the State party consider withdrawing its reservation to article 17 of the Convention.

275. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention. It further recommends that it include in its next periodic report information on measures taken to implement the Durban Declaration and Programme of Action at the national level, in particular the preparation and implementation of the national plan of action.

276. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

277. The Committee recommends that the State party submit its eighteenth periodic report jointly with its nineteenth periodic report on 8 August 2008, and that it address in this report all points raised in the present concluding observations.

KAZAKHSTAN

278. The Committee considered the initial to third periodic reports of Kazakhstan, which were due on 25 September 1999, 2001 and 2003, respectively, submitted as one document (CERD/C/439/Add.2), at its 1662nd and 1663rd meetings (CERD/C/SR.1662 and 1663), held on 13 and 16 August 2004. At its 1670th meeting (CERD/C/SR.1670), held on 19 August 2004, it adopted the following concluding observations.

A. Introduction

279. The Committee welcomes the initial report submitted by the State party and the additional information provided by the delegation. The Committee also appreciates the presence of a high-ranking delegation representing the State organs responsible for the elimination of racial discrimination and the opportunity thus afforded to enter into a dialogue with the State party in a constructive manner.

280. Noting that the initial report was submitted five years after the ratification of the Convention, the Committee invites the State party to take due account, in the submission of its future reports, of the timetable provided for by the Committee.

B. Positive aspects

281. The Committee notes that the State party is a multi-ethnic country, with numerous very different and significant communities representing more than 40 per cent of the total population, and appreciates the efforts made by the State party to provide information relating to the ethnic composition of the population as well as other statistical data.

282. The Committee appreciates the efforts of the State party to establish and improve human rights organs.

283. The Committee notes with satisfaction the information provided on the economic improvement of the country, especially the reduction of unemployment.

284. The Committee also notes with satisfaction that the State party has ratified the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol as well as the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) of ILO.

C. Concerns and recommendations

285. The Committee notes that there is no specific legislation in the State party regarding racial discrimination.

> **The Committee is of the view that specific domestic law regarding racial discrimination, implementing the provisions of the Convention, as well as a legal definition of racial discrimination that complies with the provisions of the Convention, would be a useful tool to combat racial discrimination in the State party.**

286. While taking note of the constitutional and other provisions prohibiting propaganda regarding racial or ethnic superiority, the Committee is concerned about the insufficiency of specific penal provisions concerning article 4 (a) of the Convention in the domestic legislation of the State party.

> **The Committee recommends that the State party adopt legislation, in the light of the Committee's general recommendation XV, to ensure full and adequate implementation of article 4 (a) of the Convention.**

287. While acknowledging that since independence the State party has opened its borders, the Committee also notes that there is a high level of emigration amongst particular ethnic or national groups.

> **The Committee recommends that the State party include information in its next periodic report on emigration, including information on the causes and consequences of this ongoing phenomenon and its impact on particular ethnic or national groups.**

288. While welcoming the information provided on several minorities in the State party, the Committee regrets the lack of information on the situation of certain minority groups, in particular the Roma, and their enjoyment of all human rights.

> **The Committee recommends that the State party include information in its next periodic report on the situation of all minority groups, in particular the Roma, and in this connection draws the attention of the State party to its general recommendation XXVII on discrimination against Roma.**

289. The Committee notes the absence of legislation regarding the status of languages and that little information has been provided by the State party on the participation of minorities in the elaboration of cultural and educational policies. The Committee is concerned that minority languages are not used in the educational system to an extent commensurate to the proportion of the different ethnic communities represented in the student body.

> **The Committee recommends that the State party adopt legislation on the status of languages and that it include detailed information in its next periodic report regarding the use of ethnic minority languages in education and how ethnic minorities participate in the elaboration of cultural and educational policies.**

290. The Committee notes that the ethnic representation in State institutions does not correspond to the proportion of the different ethnic communities represented in the population of the State party.

The Committee recommends that the State party include information in its next periodic report regarding the ethnic representation in State institutions and adopt practical measures to ensure that ethnic minorities have equal access to those institutions.

291. The Committee regrets the lack of information in the State party's report on the fundamental rights of non-citizens temporarily or permanently settled in Kazakhstan, including migrant workers.

Drawing the attention of the State party to its general recommendation XXX on discrimination against non-citizens, the Committee recommends that the State party include information in its next periodic report on non-citizens and on the enjoyment of their rights. Furthermore, it encourages the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

292. The Committee is concerned that some refugees have been forcibly returned to their countries when there were substantial grounds for believing that they might suffer serious human rights violations.

The Committee recommends to the State party that it include in its next periodic report information on the situation of refugees, the legal basis for their deportation, and the legal protection provided, including their rights to legal assistance and judicial appeal against deportation orders. It also urges the State party to ensure, in accordance with article 5 (b) of the Convention, that no refugees will be forcibly returned to a country where there are substantial grounds for believing that they may suffer serious human rights violations.

293. While acknowledging that the State party has developed a governmental work plan to combat human trafficking, the Committee notes with concern that there is ongoing trafficking of women and children, particularly affecting non-citizens and ethnic minorities.

The Committee recommends that the State party include detailed information in its next periodic report on human trafficking and that it reinforce its ongoing efforts to prevent and combat trafficking and provide support and assistance to victims. Furthermore, the Committee urges the State party to make determined efforts to prosecute the perpetrators and underlines the paramount importance of prompt and impartial investigations.

294. While acknowledging the efforts made by the State party to confront the scourge of terrorism with a national counter-terrorism programme, the Committee is concerned about the lack of information on the impact of this programme on the principle of non-discrimination.

The Committee draws the State party's attention to its statement of 8 March 2002 in which it stressed the obligation of States to ensure that measures taken in the

struggle against terrorism did not discriminate in purpose or effect on grounds of race, colour, descent, or national or ethnic origin[1] and requests the State party to include in its next periodic report further information on its counter-terrorism programme.

295. The Committee notes with concern that, with the exception of the judges of the Supreme Court, all the judges are appointed by the President, who also determines the organization of the work of the courts.

The Committee recommends that the State party strengthen the independence of the judiciary and other State organs in order to provide everyone with effective protection and remedies against any acts of violation of the Convention and that it include detailed information in its next periodic report on the measures taken to that end.

296. The Committee notes the absence of court cases regarding racial discrimination in the State party and that only two complaints of racial discrimination were brought before the Commission on Human Rights in 2000 and 2001.

The Committee recommends that the State party ensure that the paucity of complaints is not the result of victims' lack of awareness of their rights or limited financial means, or their lack of confidence in the police and the judicial authorities, or to the authorities' lack of attention or sensitivity to cases of racial discrimination. The Committee urges the State party to ensure that appropriate provisions are available in the national legislation regarding effective protection and remedies against violation of the Convention and to disseminate as widely as possible among the public information on the legal remedies available.

297. While noting the existence of the Commission on Human Rights, which has a primarily consultative function, as well as the recent nomination of an Ombudsman, the Committee regrets the insufficiency of detailed information regarding their independence and effectiveness.

The Committee recommends that in its next periodic report the State party provide additional information on the role and functioning of the Commission on Human Rights and the Ombudsman. Furthermore, the Committee encourages the State party to consider establishing an independent national human rights institution, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), (General Assembly resolution 48/134).

298. The Committee notes the insufficient information on efforts undertaken by the State party to involve non-governmental organizations in the preparation of the periodic report and expresses concern over the restrictions placed by the authorities on civil society organizations, including organizations working to combat racial discrimination.

The Committee underlines the importance of the role of civil society in the full implementation of the Convention and recommends that the State party remove all legal, practical and administrative obstacles to the free functioning of civil society

organizations that contribute to promoting human rights and combating racial discrimination. Furthermore, the Committee recommends that they be consulted during the preparation of the next periodic report.

299. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention. It further recommends that it include in its next periodic report information on measures taken to implement the Durban Declaration and Programme of Action at the national level.

300. The Committee also recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

301. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention and recommends that it consider so doing.

302. The Committee strongly recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment. A similar appeal was reiterated by the Assembly in resolution 58/160.

303. The Committee recommends that the State party submit its fourth periodic report jointly with its fifth periodic report on 25 September 2007, and that it address in that report all points raised in the present concluding observations.

MADAGASCAR

304. The Committee considered the tenth to eighteenth periodic reports of Madagascar, due respectively from 1988 to 2004 and submitted as one document (CERD/C/476/Add.1), at its 1644th and 1645th meetings (CERD/C/SR.1644 and 1645), held on 2 and 3 August 2004, and adopted the following conclusions at its 1665th and 1666th meetings (CERD/C/SR.1665 and 1666), held on 17 August 2004.

A. Introduction

305. The Committee welcomes the report of Madagascar and the opportunity thus afforded to resume its dialogue with the State party in a constructive manner. The Committee also welcomes the fact that the Government was represented by a large delegation representing several ministries concerned with the implementation of the Convention, which was able to respond to a great number of questions.

306. The Committee welcomes the efforts made by the State party to comply with the Committee's guidelines for the preparation of reports, while noting that the report does not contain sufficient information concerning the practical application of the Convention.

307. The Committee appreciates the oral replies of the delegation and suggests that they be completed in the next periodic report.

B. Positive aspects

308. The Committee welcomes the establishment of a committee responsible for drafting the initial and periodic reports under the human rights instruments ratified by the State party.

309. The Committee takes note of the assurance given by the delegation that, in accordance with a recent ruling of the Supreme Court, international conventions are an integral part of the domestic legal system.

310. The Committee notes with interest the establishment of such national human rights machinery as the Office of the Ombudsman, the National Human Rights Commission and the High Council to Combat Corruption.

311. The Committee welcomes the elimination of the waiting period imposed on naturalized aliens wishing to purchase real estate.

312. The Committee notes that positive steps are planned in connection with the recruitment and training of civil servants in a participatory policy aimed at the advancement of persons from the provinces.

313. The Committee notes with interest that, according to the State party, the traditional method of dispute settlement known as *Fihavanana* plays a role in preventing conflicts.

C. Concerns and recommendations

314. The Committee notes that the State party's report contains some information on the ethnic groups that make up the population of Madagascar, without specifying their number or economic, social and cultural status. However, it takes note of the delegation's statement that collecting such statistics might fuel tension between the communities.

The Committee draws the State party's attention to paragraph 8 of its guidelines for the preparation of reports. It recommends that the State party carry out targeted surveys, on the basis of voluntary self-identification, which will make it possible to determine the situation of the groups falling within the definition of article 1 of the Convention, and communicate the findings to the Committee in its next report.

315. The Committee notes that there is no definition of racial discrimination in the legal domestic order. It also notes that several laws contain provisions concerning non-discrimination which do not expressly specify race, colour and descent as prohibited grounds.

The Committee recommends that the State party should include a definition of racial discrimination in its legislation, drawing upon the elements contained in article 1 of the Convention. The State party should complete its legislation in order to prohibit racial discrimination in the same way as other forms of discrimination.

316. The Committee notes that incitement to tribal and racial hatred occurs sporadically and that acts of racial violence have been committed against members of the Indian/Pakistani community.

> **The Committee recommends that additional measures be taken to prevent such acts, and that the perpetrators should be brought to justice in accordance with relevant domestic legislation, promulgated pursuant to article 4 of the Convention. Information on the number of prosecutions brought in the criminal courts and the verdicts handed down in such cases should be provided in the next periodic report.**

317. The Committee recommends that the State party provide in its next report more detailed information on how *Fihavanana* works.

318. The Committee notes that the rules on nationality discriminate against children born to a mother of Malagasy nationality and a father of foreign nationality.

> **The Committee recommends to the State party that it revise its nationality law and guarantee such children Malagasy nationality on the same footing as children born to a father of Malagasy nationality and a mother of foreign nationality.**

319. The Committee notes with concern that some regions of the country are harder hit than others by the low level of economic development, with lower literacy rates and life expectancy in particular, even if the lack of technical and financial resources objectively contributes to these disparities.

> **The Committee points out that the principle of non-discrimination is not subject to the availability of resources, and calls on the State party to ensure that existing resources are distributed fairly among the various regions of the country. As indirect discrimination is forbidden under the Convention, the Committee draws the attention of the State party to the ethnic dimension that these inequalities could have, and invites it to adopt special measures that could be necessary under article 2, paragraph 2, of the Convention.**

320. The Committee regrets that despite the abolition of slavery and the caste system in 1896, discrimination against the descendants of slaves persists.

> **The Committee recommends that the State party take the necessary steps to put an end to discrimination based on descent, including the steps enumerated in its general recommendation XXIX. Detailed information on the situation of descendants of slaves, and of the persistence of the caste system in general, should be included in the next periodic report.**

321. The Committee notes that neither the National Human Rights Commission nor the Office of the Ombudsman has the power to hear and consider individual complaints.

> **The Committee recommends that the State party strengthen the powers of these two institutions, by conferring on them the power to hear and consider complaints and to make recommendations prior to the intervention of judicial authorities. The Principles relating to the status of national institutions for the promotion and**

protection of human rights (the Paris Principles) (General Assembly resolution 48/134) should be applied where the National Human Rights Commission is concerned.

322. The Committee recalls that the fact that victims of racial discrimination do not bring cases before the courts may be the result of, inter alia, the limited resources available to them, their lack of awareness of their rights, or the authorities' lack of attention or sensitivity to cases of racial discrimination.

The State party should take steps to inform the population about their rights as regards efforts to combat racial discrimination and should make it easier for victims to gain access to justice, in particular through the effective application of a system of legal aid. It should also strengthen training for law enforcement personnel, the legal profession and customary chiefs in this regard.

323. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and include in its next periodic report information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

324. The Committee strongly recommends that the State party ratify the amendment to article 8, paragraph 6, of the Convention adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment. A similar appeal was renewed by the Assembly in resolution 58/160.

325. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention and recommends that it consider so doing.

326. The Committee recommends that the State party make its periodic reports available to the public and publicize the Committee's conclusions in the same way.

327. The Committee recommends that the State party submit its nineteenth and twentieth periodic reports as one document due on 9 March 2008, and respond therein to all the points raised in the present concluding observations.

MAURITANIA

328. The Committee considered the sixth and seventh periodic reports of Mauritania, due respectively in 2000 and 2002, submitted as one document (CERD/C/421/Add.1), at its 1652nd and 1653rd meetings (CERD/C/SR.1652 and 1653), held on 6 and 9 August 2004, and adopted at its 1667th and 1668th meetings (CERD/C/SR.1667 and 1668), held on 18 August 2004, the following conclusions.

A. Introduction

329. The Committee welcomes the report of Mauritania and the opportunity thus afforded to pursue its dialogue with the State party. It also welcomes the fact that the State party was represented by a high-ranking delegation and notes with interest the replies given by the delegation to the questions put to it.

330. The Committee welcomes the efforts made by the State party to comply with the Committee's guidelines for the preparation of reports, but regrets that the report does not contain sufficient information regarding the practical application of the Convention and does not fully respond to the requests for information made by the Committee in its previous conclusions.

331. Noting that the report was more than three years overdue when submitted, the Committee invites the State party to comply with the deadline set for the submission of its next reports.

B. Positive aspects

332. The Committee welcomes the delegation's announcement that a national plan of action for the promotion and protection of human rights, drawn up in cooperation with the Office of the High Commissioner for Human Rights, was adopted in September 2003.

333. The Committee takes note of the delegation's statement regarding the deposit of instruments of ratification of both the International Covenants on Human Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

334. The Committee welcomes the formulation in 2001 of a strategic framework for combating poverty.

335. The Committee takes note with satisfaction of the adoption on 17 July 2003 of the Act on the Suppression of Trafficking in Persons and, in June 2004, of article 5 of the Labour Code, on the prohibition of forced and compulsory labour.

C. Concerns and recommendations

336. The Committee notes that the State party's report contains information on the linguistic composition of the population, but that this information does not convey the full complexity of Mauritanian society, particularly with regard to the composition of the Arabic-speaking group. It regrets that the economic and social indicators provided for the Committee were not disaggregated by descent or ethnic origin.

> **The State party should carry out a more precise population census that is not limited to linguistic factors, and produce more detailed indicators disaggregated by descent or ethnic origin. The Committee recommends that the State party carry out targeted surveys, on the basis of voluntary self-identification, which will make it possible to determine the situation of the groups falling within the definition of article 1 of the Convention, and communicate the findings to the Committee in its next report.**

337. The Committee notes that only the Labour Code contains a definition of racial discrimination that is close to the definition given in article 1 of the Convention.

> **The State party should incorporate in its domestic law a definition of racial discrimination that is applicable in every sphere of social life and that reproduces all the elements in article 1 of the Convention, including discrimination based on descent.**

338. The Committee is concerned that some non-governmental human rights organizations have not been officially recognized, despite having applied for such recognition.

> **The Committee recommends that the State party remove all constraints on the exercise of freedom of association and that it recognize the non-governmental human rights organizations.**

339. The Committee, while taking note of orders No. 91-023 and No. 091-024 of 25 July 1991 on freedom of the press and on political parties, respectively, notes with concern that the State party's legislation does not fully meet the requirements of article 4 of the Convention, in that the provisions of the Criminal Code do not expressly address racial or ethnic discrimination.

> **The Committee recommends that the State party fill this gap in its legislation, including by providing that racially motivated offences be considered an aggravating circumstance in the commission of an offence.**

340. The Committee regrets the lack of information on the implementation of Order No. 091-024 of 25 July 1991, which prohibits political parties from identifying with a race, an ethnic group, a region, a tribe, or a brotherhood. It is concerned at reports that the Order has sometimes been improperly applied to certain political parties.

> **The Committee recommends that the State party guarantee respect for the freedoms of expression and association in its implementation of article 4 (a) and (b) of the Convention. The State party, in its next periodic report, should indicate more precisely how Order No. 091-024 is interpreted and applied.**

341. The Committee remains concerned about allegations concerning the very low proportions of black Moors and black Africans in the army, the police, the administration, Government and other State institutions.

> **The State party should provide detailed information on this matter in its next report. It should in any case ensure that the various sectors of the Mauritanian population are effectively represented in State institutions and that they have equal access to public service.**

342. The Committee notes with concern that vestiges of the caste system persist in Mauritania. While welcoming the fact that slavery was abolished by a law dated 9 November 1981, it remains concerned about information on the persistence of slavery-like practices, which constitute serious instances of discrimination based on descent. It is concerned that no implementing orders have been issued subsequent to the 1981 law and that there is no provision in criminal law that expressly punishes slavery.

The Committee draws the State party's attention to its general recommendation XXIX concerning racial discrimination based on descent, and suggests that a detailed study of this issue should be included in the State party's next report. It strongly recommends that the State party launch, in cooperation with non-governmental organizations and religious leaders, a wide-ranging information and public-awareness campaign to put an end to slavery-like practices. The State party should ensure that the perpetrators of such practices, which are already prohibited by law, are systematically prosecuted in the courts, including in cases where they have seized the property of deceased former slaves.

343. The Committee notes that the information on the adoption of practical measures designed specifically to combat slavery-like practices remains inadequate.

Taking note of the delegation's statement that the anti-poverty programme is helping to eradicate the legacy of slavery, the Committee considers that other actions specifically targeting the populations concerned should be taken. The State party should conduct a study, in cooperation with civil society, to determine the economic and social situation of the descendants of slaves, including how many of them have title to land.

344. The Committee notes with concern that, according to some reports, several thousand black Mauritanian refugees remain in Mali and Senegal. It remains concerned at reports that many of the refugees who have returned to Mauritania have not recovered their property or their jobs.

The Committee recommends that the State party take practical measures to encourage the return of black Mauritanian refugees remaining in Mali and Senegal and their full reintegration into Mauritanian society. A detailed study of the situation of the Mauritanian refugees still in exile and of those who have returned should be provided in the next periodic report.

345. The Committee notes with concern that the Nationality Code does not appear to comply fully with article 5 (d) (iii) of the Convention, in particular since it lays down rules on access to nationality that differ depending on whether the children are born to a Mauritanian father or a Mauritanian mother, or whether they are born to a foreign father or a mother born in Mauritania.

The Committee recommends that the State party guarantee respect for the principle of non-discrimination in children's access to nationality.

346. The Committee is concerned about the prevalence of female genital mutilation among some ethnic groups.

The Committee recommends that the State party take all necessary measures to put a stop to this practice. Information and awareness-raising measures aimed specifically at, and designed for, relevant population groups should be adopted.

347. The Committee notes with concern that no provision is made in the educational curriculum for the inclusion of the national languages Pulaar, Soninke and Wolof.

> **The Committee recommends that the State party study this question again in consultation with the population groups concerned and that it consider including national languages in the education system for those children who wish to receive an education in those languages. The Committee recalls that, in any event, education in national languages should not lead to the exclusion of the group concerned and should meet the minimum standards with regard to the quality of the courses offered.**

348. The Committee notes with concern the State party's policy of ensuring that the curricula in private and public schools are identical. While taking account of the State party's desire to monitor the quality of private education, the Committee nevertheless has doubts whether such control over private schools is conducive to the teaching of the languages and cultures of minority groups.

> **The Committee recommends that the State party respect parents' freedom to choose the type of education they wish for their children and to choose for their children private schools that offer programmes meeting their expectations in terms of culture and language.**

349. The Committee is concerned about the delegation's statement that the Berber language is no longer spoken in Mauritania. According to some reports, a minority still uses this language, which is in danger of disappearing from the country.

> **The Committee recommends that the State party, in consultation with the community concerned, take steps to preserve the Berber language. Room should be made for Berber language, history and civilization in school textbooks, education and cultural events.**

350. The Committee notes that no case of racial discrimination has been brought before the national courts and is concerned that victims' opportunities to obtain a remedy are inadequate. It recalls that the fact that victims of racial discrimination do not complain to a court is not necessarily a positive indicator, and can be the result of, inter alia, the limited resources available to victims, their lack of awareness of their rights, their lack of confidence in the police and the judicial authorities, or the authorities' lack of attention or sensitivity to cases of racial discrimination.

> **The Committee recommends, in particular, that the State party conduct an independent and impartial inquiry when allegations of discrimination and slavery-like practices are brought to its attention. The State party should inform the victims of all remedies available to them, facilitate their access to justice, guarantee their right to just and adequate reparation, and publicize the relevant laws.**

351. The Committee welcomes the delegation's statement that a consultative process is under way with regard to the establishment of a national human rights commission.

> **The Committee encourages the State party to establish such a commission in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (General Assembly resolution 48/134).**

352. The Committee regrets that it did not receive sufficient information on the training of judges, lawyers and law enforcement officers, in particular, training to combat discrimination, including discrimination based on descent, and to combat the vestiges of slavery.

> **The Committee recommends that the State party adopt a specific strategy in this respect.**

353. The Committee recommends that the State party, in applying the provisions of the Convention, particularly articles 2 to 7, in its domestic legal system take into account the relevant passages of the Durban Declaration and Programme of Action and that it include in its next periodic report information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

354. The Committee strongly recommends that the State party ratify the amendment to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of the States Parties and endorsed by the General Assembly in its resolution 47/111. In this respect, the Committee refers to General Assembly resolution 57/194, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment. A similar appeal was made by the Assembly in its resolution 58/160.

355. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention, and recommends that it consider doing so.

356. The Committee recommends that the State party should make its periodic reports available to the public and publicize the Committee's conclusions in the same way.

357. The Committee recommends that the State party submit its eighth, ninth and tenth periodic reports, due on 12 January 2008, in a single document and that it address therein all the points raised in the present concluding observations.

PORTUGAL

358. The Committee considered the tenth and eleventh periodic reports of Portugal, submitted as one document (CERD/C/447/Add.1), at its 1660th and 1661st meetings (CERD/C/SR.1660 and 1661). At its 1670th meeting (CERD/C/SR.1670), held on 19 August 2004, it adopted the following concluding observations.

A. Introduction

359. The Committee welcomes the timely submission of the report by the State party, the additional oral and written information provided by the delegation as well as the constructive responses provided to the questions asked. However, the Committee notes that the structure of the report does not fully comply with its reporting guidelines.

B. Positive aspects

360. The Committee welcomes the enactment of Decree Law 251/2002 of 22 November 2002 which, inter alia, enlarges the structure and competencies of the Office of the High Commissioner for Immigration and Ethnic Minorities and establishes the Advisory Board for Immigration Affairs, tasked with ensuring the participation of associations representative of immigrants, employers' associations and social solidarity institutions in the elaboration of policies promoting social integration and combating exclusion.

361. The Committee welcomes the fact that the financial budget of the Office of the High Commissioner for Immigration and Ethnic Minorities has recently been considerably increased.

362. The Committee notes with appreciation the work performed by the Office of Multiculturalism, especially in promoting numerous programmes and projects in the field of education in respect of children belonging to ethnic minorities, in particular Roma/gypsies.

363. The Committee also welcomes the several mechanisms established to assist immigrants in Portugal, such as the Observatory of Immigration, the Call Centre "SOS Immigrant" and the local and national support centres for immigrants.

364. The Committee further notes with satisfaction the prohibition, as a result of the fourth revision of the Constitution, of racist organizations (organizations adopting a fascist ideology having already been banned).

C. Concerns and recommendations

365. The Committee notes the absence of statistical data on the ethnic composition of the population owing to the State party's legislation, which prohibits the collection of data and statistics on race and ethnicity.

> **The Committee is of the opinion that, if progress in eliminating racial discrimination based on race, colour, descent, and national and ethnic origin is to be monitored, some indication is needed of the number of persons who could suffer discrimination on these grounds. The Committee therefore recommends that, in line with paragraph 8 of the reporting guidelines, the State party provide information on the use of mother tongue as indicative of ethnic differences, together with information derived from targeted social surveys performed on a voluntary basis and in full respect of the privacy and anonymity of the individuals concerned.**

366. While noting the efforts undertaken by the State party to counter racially motivated violence and discrimination, the Committee continues to be concerned that racially motivated acts and incitement to hatred continue to occur and that intolerance and de facto discrimination, in particular towards ethnic minorities, persist. Furthermore, the Committee is concerned about the activities of the National Renovation Party, which targets immigrants in its manifestos and campaigns.

> **The Committee recommends that the Government pursue and intensify its efforts to eradicate all incitement to, and acts of, racial discrimination. In this respect, in light of its general recommendation XXX, the Committee recommends that the State party introduce in its criminal law a provision to the effect that committing an offence with racist motivation or aim constitutes an aggravating circumstance. The Committee would also appreciate more detailed information on the procedure applicable to and the authorities competent to deal with cases of organizations reported to be racist.**

367. The Committee expresses concern about allegations it has received of instances of police misconduct towards ethnic minorities or persons of non-Portuguese origin, including excessive use of force, ill-treatment and violence.

> **The Committee recommends that the State party investigate thoroughly, impartially and effectively all allegations of ill-treatment, violence or excessive use of force by police officers, bring those responsible to justice and provide adequate remedies and compensation to the victims. Furthermore, in light of its general recommendation XIII, the Committee recommends that the State party continue to provide intensive training to law enforcement officials so as to ensure that in the performance of their duties they respect and protect human dignity and maintain and uphold the human rights of all persons without distinction as to race, colour, descent, or national or ethnic origin.**

368. The Committee notes that immigrants from Central and Eastern Europe are reportedly more easily accepted and integrated into Portuguese mainstream society than other immigrants, especially Africans. The Committee expresses concern that this phenomenon of "two-speed" integration may result in de facto discrimination against certain groups of immigrants.

> **The Committee recommends that the State party take all possible measures to promote and ensure the enjoyment of equal opportunities to all immigrants in the country, irrespective of their origin.**

369. The Committee is concerned about the relative isolation of some groups of immigrants and members of ethnic minorities in marginalized neighbourhoods or areas and their difficult situation in respect of housing conditions.

> **The Committee encourages the State party to continue taking measures to avoid the marginalization of some groups of immigrants and members of ethnic minorities in ghetto-like neighbourhoods and guarantee the equal enjoyment of the right to adequate housing to all.**

370. While the Committee notes the measures taken by the State party to improve the situation of Roma/gypsies, it remains concerned about the difficulties faced by many members of this community in the fields of employment, housing and education, as well as reported cases of discrimination in daily life. The Committee also invites the State party to take more effectively into account, in all programmes and projects planned and implemented and in all measures adopted, the situation of Roma/gypsy women, who are often victims of double discrimination.

> **The Committee urges the State party to continue taking special measures in accordance with article 2, paragraph 2, of the Convention to ensure the adequate protection of Roma/gypsies and to promote equal opportunities for the full enjoyment of their economic, social and cultural rights.**

371. The Committee notes the new rules for family reunification following the recent enactment of new legislative provisions governing the entry, stay, departure and removal of aliens from the national territory.

> **The Committee recommends that the State party take measures to facilitate family reunification of immigrants in a regular situation. Furthermore, the Committee invites the State party to consider signing and ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.**

372. The Committee is concerned about the non-suspensive effect of appeal in the admissibility phase of the asylum procedure, which may result in creating an irreversible situation, even if the decision of the administrative authorities were to be overturned on appeal.

> **The Committee urges the State party to guarantee respect for the legal safeguards for asylum-seekers and to ensure that its asylum law and procedures conform to its international obligations in this field.**

373. The Committee strongly recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment. A similar appeal was reiterated by the Assembly in resolution 58/160.

374. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures it has taken to implement the Durban Declaration and Programme of Action at the national level.

375. The Committee encourages the State party to continue consulting with organizations of civil society working in the area of combating racial discrimination during the preparation of the next periodic report.

376. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

377. The Committee recommends that the State party submit its twelfth and thirteenth periodic reports jointly, due on 23 September 2007, and that it address therein all points raised in the present concluding observations.

SLOVAKIA

378. The Committee considered the fourth and fifth periodic reports of Slovakia, submitted in one document (CERD/C/419/Add.2), at its 1654th and 1655th meetings (CERD/C/SR.1654 and 1655), held on 9 and 10 August 2004. At its 1668th meeting (CERD/C/SR.1668), held on 18 August 2004, it adopted the following concluding observations.

A. Introduction

379. The Committee welcomes the reports submitted by the State party in conformity with the reporting guidelines as well as the additional oral and written information provided by the delegation. The Committee is encouraged by the attendance of a large and well-qualified delegation and expresses its appreciation for the very constructive and frank responses provided to the questions asked.

B. Positive aspects

380. The Committee notes with appreciation that the Hungarian minority - the largest national minority in Slovakia - is well integrated in mainstream society and that it is adequately represented, including among high-level civil servants and politicians.

381. The Committee also welcomes:

(a) The amendment to article 127 of the Constitution, introducing a constitutional complaint procedure;

(b) The entry into force of the Anti-Discrimination Law on 1 July 2004;

(c) Act No. 253/2001 and Act No. 421/2004, amending the Criminal Code by, respectively, adding membership of an ethnic group to the elements of racially motivated crimes and criminalizing offences committed through the Internet;

(d) The numerous activities undertaken by the Government Plenipotentiary for Roma minority affairs in promoting and coordinating programmes and projects aimed at achieving equal status for citizens belonging to the Roma community;

(e) The establishment of several institutions and programmes for the promotion and protection of human rights, in particular in the field of racial discrimination, including:

(i) The Action Plan for the Prevention of All Forms of Discrimination, Racism, Xenophobia, Anti-Semitism and Other Expressions of Intolerance for the Period 2002-2003 and 2004-2005;

(ii) **Resolution No. 278 of 23 April 2003 on the "Assessment of the 2002 Priorities of the Government of the Slovak Republic relating to Roma Communities, the 2001 Strategy of the Government of the Slovak Republic for Addressing Roma Community Issues and the Basic Theses of the Government of the Slovak Republic Policy Concept for the Integration of Roma Communities".**

C. Concerns and recommendations

382. While the Committee notes with appreciation the continuous efforts undertaken to combat racial discrimination and related violence, including the setting up of a commission to deal with racially motivated violence and of the Racism and Xenophobia Monitoring Centre, it remains concerned about the occurrence of racially motivated crimes and incidents in the country.

The Committee encourages the State party to continue monitoring all tendencies that may give rise to racist and xenophobic behaviour and to combat the negative consequences of such tendencies. The Committee also recommends that the State party intensify its efforts to ensure to everyone within its jurisdiction effective protection against any act of racial discrimination, as well as the right to seek just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination. In this respect, the State party should ensure that victims of racist crimes are afforded wider access to free legal assistance.

383. The Committee shares the delegation's concern that discriminatory attitudes and feelings of hostility towards members of the Roma community are deep-rooted and widespread throughout the country.

The Committee wishes to recall its general recommendation XXVII on discrimination against Roma and recommends that the State party continue to endeavour, by encouraging a genuine dialogue, to improve relations between Roma communities and non-Roma communities with a view to promoting tolerance and overcoming prejudices and negative stereotypes. The Committee also invites the State party to take more effectively into account, in all programmes and projects planned and implemented and in all measures adopted, the situation of Roma women, who are often victims of double discrimination.

384. While the Committee notes with satisfaction the efforts of the State party in respect of the training of law enforcement officials, it expresses concern about allegations of discriminatory behaviour by the police towards members of minority groups, in particular Roma, including acts of ill-treatment and violence.

The Committee recommends that the State party intensify its action to halt this phenomenon and set up an independent monitoring mechanism to carry out investigations into allegations of police misconduct.

385. While the Committee welcomes the extensive measures adopted by the State party in the field of education aimed at improving the situation of Roma children, including the "Roma assistants" project, it continues to express concern at de facto segregation of Roma children in special schools, including special remedial classes for mentally disabled children.

> **The Committee recommends that the State party prevent and avoid the segregation of Roma children, while keeping open the possibility of bilingual or mother-tongue education. The Committee further recommends that the State party intensify its efforts to raise the level of achievement in school by Roma children, recruit additional school personnel from among members of Roma communities and promote intercultural education.**

386. While the Committee recognizes the efforts made in the field of employment - including the recent adoption of the amended Labour Code, which prohibits discrimination in its section 13 - it is alarmed by de facto discrimination against Roma as well as by the very high rate of unemployment among members of the Roma community.

> **The Committee recommends that the legislation prohibiting discrimination in employment and all discriminatory practices in the labour market be fully implemented in practice and that further measures be taken, in particular by focusing on professional training, to reduce unemployment among the Roma community.**

387. While the Committee notes the "comprehensive Roma settlements development programme", as well as the "programme of support for the construction of communal rental housing of a different standard", it expresses concern about the isolation of the Roma community in ghetto-like neighbourhoods and their critical situation in respect of housing conditions, especially in the eastern part of the country, where most of the Roma community is concentrated.

> **In light of its general recommendation XXVII, the Committee recommends that the State party effectively implement policies and projects aimed at avoiding segregation of Roma communities in housing and involve Roma communities and associations as partners in housing construction, rehabilitation and maintenance projects. Furthermore, the Committee encourages the State party to take all possible measures to further improve housing conditions for Roma, taking also into account that for families, and particularly children, living in a proper environment is an essential prerequisite for access to education and employment on an equal footing.**

388. The Committee is alarmed at the critical health situation of some Roma communities, which is largely a consequence of their poor living conditions.

> **The Committee recommends that the State party continue to implement programmes and projects in the field of health for Roma, bearing in mind their disadvantaged situation resulting from extreme poverty and low levels of education; to this end, the Committee encourages the State party to take further measures to address the issues of drinking water supplies and sewage disposal systems in Roma settlements.**

389. The Committee is concerned about reports of cases of sterilization of Roma women without their full and informed consent. In this respect, the Committee welcomes the assurances given by the delegation that a draft law on health care, which would address shortcomings in the system by specifying the requirement of free and informed consent for medical procedures and guarantee patients' access to medical files, has been approved by the Government and should shortly be adopted by the Parliament.

> **The Committee strongly recommends that the State party take all necessary measures to put an end to this regrettable practice, including the speedy adoption of the above-mentioned draft law on health care. The State party should also ensure that just and effective remedies, including compensation and apology, are granted to the victims.**

390. The Committee notes the assurances given by the delegation that the State party is adequately following up the Committee's recommendations in its opinion No. 11/1998 (*Miroslav Lacko v. Slovak Republic*), and that the new draft Criminal Code will provide for the punishment of violations of the right of access of all persons to public places guaranteed in article 5 (f) of the Convention.

> **The Committee recommends that the State party include in its next periodic report information on the implementation of the Committee's opinion No. 11/1998 and on the adoption and the implementation of the above-mentioned legislation.**

391. The Committee strongly recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment. A similar appeal was reiterated by the Assembly in resolution 58/160.

392. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on further action plans or other measures they have taken to implement the Durban Declaration and Programme of Action at the national level.

393. The Committee recommends the State party to continue consulting with organizations of civil society working in the area of combating racial discrimination during the preparation of the next periodic report.

394. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

395. The Committee recommends that the State party submit its sixth, seventh and eighth periodic reports jointly, due on 28 May 2008, and that it address therein all points raised in the present concluding observations.

TAJIKISTAN

396. The Committee considered the initial to fifth periodic reports of Tajikistan, due respectively from 1996 to 2004, submitted as one document (CERD/C/463/Add.1), at its 1658th and 1659th meetings (CERD/C/SR.1658 and 1659), held on 11 and 12 August 2004. At its 1670th meeting (CERD/C/SR.1670), held on 19 August 2004, it adopted the following concluding observations.

A. Introduction

397. The Committee welcomes the report submitted and the opportunity thus afforded to enter into dialogue with the State party in a constructive manner. The Committee also appreciates the presence of a high-ranking delegation and the efforts it made to respond to the questions asked.

398. The Committee welcomes the efforts made by the State party to comply with the reporting guidelines of the Committee, in particular by providing information relating to the ethnic composition of the population as well as statistical data. More information should be provided, however, on the practical implementation of the Convention.

399. Taking into consideration that economic difficulties have prevented the State party submitting its initial report until nine years after its ratification of the Convention, the Committee invites the State party to take due account, in the submission of its future reports, of the timetable provided for by the Committee.

B. Positive aspects

400. The Committee welcomes the establishment, in 2002, of the Commission on Fulfilment of International Human Rights Commitments entrusted with a mandate to receive individual complaints and to draft periodic reports under the international human rights instruments.

401. The Committee notes with satisfaction the State party's accession to major United Nations human rights instruments, as well as to the Commonwealth of Independent States Convention concerning the Rights of Persons Belonging to National Minorities.

402. The Committee notes with interest that the State party's legislation appears to be generally in conformity with article 4 of the Convention and that under article 62 of the Penal Code, racial discrimination is an aggravating circumstance in the commission of criminal offences.

403. The Committee notes with appreciation that Tajik law guarantees the freedom of citizens to choose their language of instruction and to use their language when dealing with government bodies and authorities, enterprises, institutions and associations.

404. The Committee welcomes the fact that the State party consulted with several organizations representing ethnic groups while preparing the report.

405. The Committee takes note with satisfaction of the statement made by the delegation that ratification of the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness is currently under study, and encourages it to ratify these instruments in a timely manner.

C. Concerns and recommendations

406. The Committee notes that there is no definition of racial discrimination in domestic law. The definition provided in the Convention may, however, be directly invoked before tribunals.

> **The Committee is of the view that the elaboration of legislation on racial discrimination, including all elements provided in article 1 of the Convention, would be a useful tool for combating racial discrimination.**

407. The Committee regrets that insufficient information was provided on the effective level of participation of members of national and ethnic minorities in State institutions.

> **The State party should provide more information on this issue, including statistical data, in its next periodic report.**

408. The Committee is concerned that the criteria for prohibiting refugees and asylum-seekers from living in certain settlements under the 2002 Law "On Refugees" are not clear and that, as a result, article 5 (d) (i) of the Convention may be violated.

> **The Committee requests the State party to provide more information about the Law "On Refugees" and limitations of freedom of movement and residence in order to ascertain whether the Law is in conformity with the State party's international commitments.**

409. The Committee is concerned that, according to some information, refugees have been denied Tajik citizenship despite the fact that they comply with the requirements set out in the Law "On Citizenship".

> **The Committee draws the attention of the State party to its general recommendation XXX on discrimination against non-citizens and recommends that it apply the Law "On Citizenship" without discrimination, as requested in article 5 (d) (iii) of the Convention.**

410. The Committee is concerned that, according to some reports, refugees, in particular Afghan refugees, have been forcibly returned to their countries.

> **The State party should pursue its cooperation with UNHCR in order to protect persons who have sought refuge in Tajikistan. The Committee also urges the State party to ensure, in accordance with article 5 (b), that no person will be forcibly returned to a country where there are substantial grounds for believing that his/her life or health may be put at risk.**

411. The Committee regrets that no information was provided by the State party on the situation of the Roma community in Tajikistan.

The Committee recommends that the State party include detailed information in its next report on the situation of the Roma. Drawing the attention of the State party to its general recommendation XXVII, the Committee recommends that it adopt a strategy to improve the situation of the Roma and their protection against discrimination by State bodies as well as by any person or organization.

412. The Committee, while appreciating the State party's efforts to provide children belonging to ethnic minorities with education in their native languages, notes with regret that there is an insufficient number of Uzbek textbooks in the Latin alphabet, adapted to new curricula.

The Committee encourages the State party to undertake consultations with the Uzbek minority and make every effort to address their concerns on this issue. The State party should submit additional information on the effective implementation of the Education Act, in particular on the number of schools teaching in minority languages and their geographical distribution, the quality of education provided and the difficulties encountered, if any.

413. The Committee notes with concern that, according to some information, minority languages are rarely used on public television and radio, newspapers and magazines.

The Committee recommends that the State party ensure that sufficient time is devoted to programmes in minority languages on public radio and television. The State party should take steps to facilitate the publication of newspapers in minority languages. Particular efforts should be made in this regard in relation to the use of Uzbek, which is the language spoken by the largest minority.

414. The Committee notes with interest that the 1997 Culture Act guarantees the right of national and ethnic minorities to preserve and develop their cultural identity.

The Committee wishes to receive more information on the content and effective implementation of this law, the specific programmes adopted to that end, and the mechanisms ensuring the participation of the groups concerned in the elaboration and implementation of these programmes.

415. The Committee notes that there have been no court cases concerning racial discrimination.

The Committee recommends that the State party verify that the lack of any such complaints is not the result of victims' lack of awareness of their rights, individuals' lack of confidence in the police and the judicial authorities, or the authorities' insufficient attention or sensitivity to cases of racial discrimination. The next periodic report should contain an analysis of the situation in this respect.

416. The Committee notes with interest that the establishment of a national human rights institution is currently being studied.

> **The Committee encourages the State party to establish promptly such an institution, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (General Assembly resolution 48/134).**

417. The Committee regrets the lack of information on action taken by the State party to enhance better understanding, respect and tolerance between ethnic groups in Tajikistan, in particular on programmes, if any, that have been adopted to ensure intercultural education.

> **The State party should adopt measures to promote intercultural understanding and education between ethnic groups, in particular in the areas of teaching, education, culture and information. It should provide more detailed information on this issue in its next periodic report.**

418. The Committee welcomes the efforts to train judges and other law enforcement personnel in the field of human rights.

> **The State party should provide information on the effectiveness of such training and its impact regarding the implementation of the Convention.**

419. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention and recommends that it consider the possibility of so doing.

420. The Committee strongly recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment. A similar appeal was reiterated by the Assembly in resolution 58/160.

421. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures they have taken to implement the Durban Declaration and Programme of Action at the national level.

422. The Committee encourages the State party to continue consulting with civil society working in the area of combating racial discrimination in the elaboration of its next periodic report.

423. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

424. The Committee recommends that the State party submit its sixth periodic report jointly with its seventh periodic report, due on 10 February 2008, that the report be comprehensive and that it address all points raised in the present concluding observations.

Note

[1] ***Official Records of the General Assembly, Fifty-seventh session, Supplement No. 18*** **(A/57/18), chap. XI, sect. C, para. 5.**

IV. FOLLOW-UP TO THE CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

425. The Committee, at its 1671st meeting, on 20 August 2004, decided to send the following letter to the Permanent Representative of Botswana to the United Nations Office at Geneva:

"20 August 2004

"Excellency,

"I write to inform you that the Committee on the Elimination of Racial Discrimination decided, at its sixty-fifth session, on 20 August 2004, to request the State party to submit detailed information relating to the implementation of paragraph 301 of the Committee's previous concluding observations on Botswana, adopted in August 2002 (A/57/18, paras. 292-314).

"In this paragraph, the Committee expressed concern about the discriminatory character of certain domestic laws, such as the Chieftainship Act and the Tribal Territories Act, which recognize only the Tswana-speaking tribes. It noted that other tribes, especially the Basarwa/San peoples, were reported to suffer from cultural, social, economic and political exclusion, did not enjoy group rights to land, and did not participate in the House of Chiefs. It further noted that the amendment of sections 77 to 79 of the Constitution was in process, and recommended that recognition and representation of all tribes in Botswana on an equal basis be ensured in the Constitution, and that the Chieftainship Act and the Tribal Territories Act be amended accordingly.

"According to reports made available to the Committee, a Constitution Amendment Bill, 2003 (Bill No. 31 of 2003), currently tabled in Parliament, is not in conformity with the Committee's recommendation, in that it will discriminate against non-Tswana-speaking tribes. The Committee therefore invites the State party to comment on this allegation, and recommends that such comments be submitted to it before 20 September 2004.

"The Committee furthermore draws the attention of the State party to the willingness of Committee members to provide assistance for the purpose of complying with the provisions of the Convention.

"Yours sincerely,

"(*Signed*): Mario Yutzis
Chairman
Committee on the Elimination
of Racial Discrimination"

V. REVIEW OF THE IMPLEMENTATION OF THE CONVENTION IN STATES PARTIES THE REPORTS OF WHICH ARE SERIOUSLY OVERDUE

A. Reports overdue by at least 10 years

426. The following States parties are at least 10 years late in the submission of their reports:

Sierra Leone	Fourth to eighteenth periodic reports (due from 1976 to 2004)
Liberia	Initial to fourteenth periodic reports (due from 1977 to 2003)
Guyana	Initial to fourteenth periodic reports (due from 1978 to 2004)
Gambia	Second to thirteenth periodic reports (due from 1982 to 2004)
Togo	Sixth to sixteenth periodic reports (due from 1983 to 2003)
Somalia	Fifth to fourteenth periodic reports (due from 1984 to 2002)
Papua New Guinea	Second to eleventh periodic reports (due from 1985 to 2003)
Solomon Islands	Second to eleventh periodic reports (due from 1985 to 2003)
Central African Republic	Eighth to seventeenth periodic reports (due from 1986 to 2004)
Mozambique	Second to eleventh periodic reports (due from 1986 to 2004)
Afghanistan	Second to eleventh periodic reports (due from 1986 to 2004)
United Republic of Tanzania	Eighth to sixteenth periodic reports (due from 1987 to 2003)
Seychelles	Sixth to thirteenth periodic reports (due from 1989 to 2003)
Ethiopia	Seventh to fourteenth periodic reports (due from 1989 to 2003)
Congo	Initial to eighth periodic reports (due from 1989 to 2003)
Antigua and Barbuda	Initial to eighth periodic reports (due from 1989 to 2003)
Saint Lucia	Initial to seventh periodic reports (due from 1991 to 2003)
Maldives	Fifth to tenth periodic reports (due from 1993 to 2003)
Bosnia and Herzegovina	Initial to fifth periodic reports (due from 1994 to 2004)

B. Reports overdue by at least five years

427. The following States parties are at least five years late in the submission of their reports:

Chad	Tenth to thirteenth periodic reports (due from 1996 to 2002)
Monaco	Initial to fourth periodic reports (due from 1996 to 2002)
El Salvador	Ninth to twelfth periodic reports (due from 1996 to 2002)
Nicaragua	Tenth to thirteenth periodic reports (due from 1997 to 2003)
Democratic Republic of the Congo	Eleventh to fourteenth periodic reports (due from 1997 to 2003)
Malawi	Initial to fourth periodic reports (due from 1997 to 2003)
United Arab Emirates	Twelfth to fifteenth periodic reports (due from 1997 to 2003)
Burkina Faso	Twelfth to fifteenth periodic reports (due from 1997 to 2003)
Namibia	Eighth to tenth periodic reports (due from 1998 to 2002)
Bulgaria	Fifteenth to seventeenth periodic reports (due from 1998 to 2002)
India	Fifteenth to seventeenth periodic reports (due from 1998 to 2002)
Kuwait	Fifteenth to seventeenth periodic reports (due from 1998 to 2002)
Niger	Fifteenth to seventeenth periodic reports (due from 1998 to 2002)
Pakistan	Fifteenth to seventeenth periodic reports (due from 1998 to 2002)
Panama	Fifteenth to seventeenth periodic reports (due from 1998 to 2002)
Philippines	Fifteenth to seventeenth periodic reports (due from 1998 to 2002)
Serbia and Montenegro	Fifteenth to seventeenth periodic reports (due from 1998 to 2002)
Israel	Tenth to twelfth periodic reports (due from 1998 to 2002)
Guatemala	Eighth to tenth periodic reports (due from 1998 to 2002)
Mexico	Twelfth to fourteenth periodic reports (due from 1998 to 2002)
Swaziland	Fifteenth to seventeenth periodic reports (due from 1998 to 2002)
Cameroon	Fourteenth to sixteenth periodic reports (due from 1998 to 2002)

The former Yugoslav Republic of Macedonia	Fourth to sixth periodic reports (due from 1998 to 2002)
Peru	Fourteenth to sixteenth periodic reports (due from 1998 to 2002)
Burundi	Eleventh to thirteenth periodic reports (due from 1998 to 2002)
Cambodia	Eighth to tenth periodic reports (due from 1998 to 2002)
Iraq	Fifteenth to seventeenth periodic reports (due from 1999 to 2004)
Cuba	Fourteenth to sixteenth periodic reports (due from 1999 to 2004)
Gabon	Tenth to twelfth periodic reports (due from 1999 to 2004)
Jordan	Thirteenth to fifteenth periodic reports (due from 1999 to 2004)

C. Action taken by the Committee to ensure submission of reports by States parties

428. At its sixty-fourth and sixty-fifth sessions, the Committee reviewed the question of delays and non-submission of reports by States parties in accordance with their obligations under article 9 of the Convention.

429. At its forty-second session, the Committee, having emphasized that the delays in reporting by States parties hampered it in monitoring implementation of the Convention, decided that it would continue to proceed with the review of the implementation of the provisions of the Convention by the States parties whose reports were overdue by five years or more. In accordance with a decision taken at its thirty-ninth session, the Committee agreed that this review would be based upon the last reports submitted by the State party concerned and their consideration by the Committee. At its forty-ninth session, the Committee further decided that States parties whose initial reports were overdue by five years or more would also be scheduled for a review of implementation of the provisions of the Convention. The Committee agreed that in the absence of an initial report, the Committee would consider all information submitted by the State party to other organs of the United Nations or, in the absence of such material, reports and information prepared by organs of the United Nations. In practice the Committee also considers relevant information from other sources, including from non-governmental organizations, whether it is an initial or periodic report that is seriously overdue. At its sixty-fourth session, the Committee decided that the concluding observations adopted under the review procedure would be considered as provisional and would be communicated confidentially to the State party concerned. In the absence of any commitment of the State party to submit a report within the next few months, these concluding observations would be adopted as a final document and made public at the following session.

430. Following its sixty-third session, the Committee decided to schedule at its sixty-fourth session a review of the implementation of the Convention in the following States parties whose periodic reports were seriously overdue: Guyana, Barbados, Madagascar, Nigeria, Venezuela, Saint Lucia and the United Republic of Tanzania. Madagascar was

withdrawn from the list prior to the sixty-fourth session following the submission of a report. In the cases of Barbados, Nigeria and Venezuela, the reviews were postponed at the request of the States parties which indicated their intention to submit the requested reports shortly. At its 1623rd meeting, the Committee reviewed the implementation of the Convention in Saint Lucia.

431. Following its sixty-fourth session, the Committee decided to schedule at its sixty-fifth session a review of the implementation of the Convention in the following States parties whose initial and periodic reports were seriously overdue: Barbados, Nigeria, Venezuela, the Lao People's Democratic Republic, Mexico, Mozambique and Zambia. Barbados, Nigeria, the Lao People's Democratic Republic, Venezuela and Zambia were withdrawn from the list prior to the sixty-fifth session following the submission of a report. Mexico and Mozambique were postponed to a subsequent session on the undertaking of the States parties to submit the requested reports within a one-year period. In the absence of any information by Saint Lucia concerning the date of submission of its overdue reports, the Committee decided to make public the provisional observations confidentially adopted and transmitted to Saint Lucia at its sixty-fourth session.

D. Decisions

432. At its 1636th meeting, held on 9 March 2004, the Committee adopted the following decision:

Decision (1) 64 on Guyana

> 1. The Committee on the Elimination of Racial Discrimination recalls its decision 2 (62) adopted on 21 March 2003 and regrets that the State party has been unable to fulfil its commitment to submit its initial to fourteenth periodic reports, combined in one document, in time for consideration at the sixty-fourth session of the Committee. However, it takes note of the submission by Guyana of its report to the Committee on the Elimination of Discrimination against Women and of its report to the Committee on the Rights of the Child.
>
> 2. The Committee notes that, following repeated requests from the State party for technical assistance from the Office of the High Commissioner for Human Rights, a decision was recently taken to appoint a consultant to assist the State party in the preparation of the report. In this connection, the Committee also takes note of the State party's assurances that it remains committed to the preparation and submission to the Committee of its initial to fourteenth periodic reports, combined in one document.
>
> 3. The Committee recognizes the difficult economic and social conditions facing Guyana and remains deeply concerned about the extensive political and ethnic conflicts which have aggravated the situation in the country and led to serious divisions in society, and that this has affected the ability of the State party to fulfil the requirements of the Convention.

4. The Committee agrees with intergovernmental and non-governmental organizations and United Nations agencies that a vicious circle of political and ethnic tensions has adversely affected human rights, weakened civil society, increased racial violence and poverty and exclusion among indigenous population groups, and hampered the administration of justice and the application of human rights standards in Guyana.

5. The Committee reiterates that the purpose of the system whereby States parties submit reports is to establish and maintain a dialogue with the Committee on actions taken, progress made and difficulties encountered in complying with obligations arising under the Convention. It further reiterates that any State party's failure to honour its reporting obligations under article 9 of the Convention is a serious impediment to the operation of the monitoring system established under the Convention.

6. The Committee is particularly encouraged by the indication made to the Committee by the United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance that the process of political dialogue currently under way will make a fundamental contribution to the long-term solution to the problem of ethnic polarization in the country (see also E/CN.4/2004/18/Add.1).

7. The Committee recommends that the initial to fourteenth reports of Guyana, combined in one document, be submitted before 30 September 2004, so that they can be processed and scheduled for examination in 2005. In the event of the non-receipt of the report by that date, the Committee will reschedule the examination of the situation in Guyana under the review procedure at its sixty-sixth session, to be held in March 2005.

1636th meeting
9 March 2004

433. At its 1671st meeting, held on 20 August 2004, the Committee decided to send the following reply to the letter from the Permanent Representative of Saint Lucia to the United Nations* received on 7 April 2004:

"Excellency,

"I write to inform you that, in the absence of any indication as to when the initial to seventh periodic reports of Saint Lucia will be submitted, the Committee on the Elimination of Racial Discrimination has decided to publish the provisional concluding observations relating to the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination in Saint Lucia, which had been adopted at its sixty-fourth session in March 2004.

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* See annex VII to the present report.

"The Committee took note of the information provided in your letter of 7 April 2004, explaining that the failure of Saint Lucia to comply with its reporting obligation under article 9 of the Convention is not based on any disregard or disrespect for the Committee or its work, but on practical considerations relating to weak administrative and institutional capacity, the necessity for prioritization of scarce resources, as well as the fact that 'racial discrimination is not an issue in Saint Lucia'. The Committee wishes to stress, however, that reporting on the implementation of the Convention, more than 14 years after ratification, should now be considered as a priority by the State party. It furthermore states that it is unable to accept any State party's general assertion that there is no racial discrimination on its territory, and reminds the State party that the Committee has not been informed about any detailed studies conducted by Saint Lucia assessing and evaluating the occurrence of racial discrimination in the country.

"The Committee wishes to reiterate its willingness to open a dialogue with the Government of Saint Lucia on the implementation of the Convention. It notes that in the State party's view, as expressed in the above-mentioned letter, the Committee's provisional concluding observations 'convey a picture of Saint Lucia that is totally false'. It recalls, however, that these provisional concluding observations, in the absence of any report provided by the State party, were adopted on the basis of available information. Therefore, the best way for the State party to deny the content of the provisional concluding observations is to report precisely to the Committee on the specific issues they raise.

"The Committee notes with satisfaction that the provisional concluding observations were transmitted to the capital with a request that a comprehensive response be prepared in addition to the outstanding reports for early submission to the Committee, but regrets that no document has yet been received.

"The Committee therefore strongly urges the State party to submit in one consolidated document its initial to seventh periodic reports, due from 14 March 1991 to 14 March 2003, before 31 December 2004, so that they can be processed and scheduled for examination at the sixty-seventh session of the Committee, in August 2005.

"Yours sincerely,

"(*Signed*): Mario Yutzis
Chairman
Committee on the Elimination
of Racial Discrimination"

E. Provisional concluding observations adopted following the review of the implementation of the Convention

SAINT LUCIA

434. At its 1623rd meeting (CERD/C/SR.1623), held on 1 March 2004, the Committee considered the situation in Saint Lucia with respect to the implementation of the Convention, based, inter alia, on information from other United Nations bodies and from its previous consideration of the situation in Saint Lucia in March 1998, and adopted, at its 1638th meeting (CERD/C/SR.1638), on 10 March 2004, the following provisional observations.

A. Introduction

435. The Committee regrets that the State party has never reported to the Committee since it ratified the Convention in 1990. The Committee notes that Saint Lucia does not have any representation in Geneva, but nevertheless regrets that the State party was not able to respond to its invitations to participate in the meeting and submit relevant information. It wishes to draw the attention of the State party to the fact that reporting is an obligation under article 9 of the Convention and that non-compliance in this regard creates serious obstacles to the effective functioning of the monitoring system set up by the Convention. Furthermore, the Committee regrets the failure of the State party to submit a core document.

B. Factors and difficulties impeding the implementation of the Convention

436. The Committee is aware that the accumulated delay in the submission of these reports may be largely due to inadequacies in the administrative services available to the State party for the discharge of its obligation to submit reports.

C. Positive aspects

437. The Committee notes with interest that the Constitution of the State party, in article 13, provides for protection of all persons against racial discrimination.

438. The Committee welcomes the creation, in 1979, of an Ombudsman responsible for the protection and promotion of human rights.

D. Concerns and recommendations

439. The Committee has at its disposal approximate data on the composition of the population following the 2001 census. The Committee, recalling that such information is a prerequisite for the implementation of policies in favour of ethnic groups and for an assessment of the fulfilment of the Convention, recommends that the State party provide updated information on the composition of the population by ethnic and linguistic group, as well as specific information on the Bethechilokono indigenous people.

440. The Committee wishes to obtain information on the status of the Convention in domestic law and on the possibility of invoking its provisions before national courts.

441. The Committee invites the State party to provide further information on the extent of the competencies and on the activities of the Ombudsman. Further, the Committee wishes to know whether the Ombudsman has had an opportunity to make findings on instances of racial discrimination.

442. While noting that the Constitution of the State party prohibits racial discrimination, the Committee observes that no information has been provided to it on the existence of any special legislation to combat racial discrimination.

The Committee requests the State party to include in its report detailed information on specific legislative provisions and regulations to combat racial discrimination. In this connection, the Committee draws attention to its general recommendations I, II, VII and XV, and emphasizes the preventive character of legislation expressly prohibiting racial discrimination and racist propaganda.

443. The Committee notes with concern that, according to certain sources, the State party has allegedly not recognized the Bethechilokono indigenous people.

The Committee requests the State party to provide it with information on the legal status of the Bethechilokono or any other indigenous peoples which may exist.

444. The Committee notes with concern that, according to information available to it, the prison population is allegedly subjected to deplorable conditions, largely owing to overcrowding.

The Committee requests the Government of Saint Lucia to provide it with statistical data on the ethnic composition of the prison population.

445. The Committee is concerned by the alleged resurgence of violence against women, in particular within the family.

The Committee draws the attention of the State party to its general recommendation XXV concerning the gender-related dimensions of racial discrimination and asks it to provide statistical data, by ethnic group, on the extent of domestic violence, and to take preventive measures against such violence.

446. The Committee notes the information received indicating the alleged absence of indigenous representatives in senior government posts. It notes that the requirement to speak and read English, provided for under article 25 of the Constitution, curtails the right of the indigenous population, the majority of whom are fluent only in Kweyol, to participate in political elections.

The Committee recommends that the State party bring the relevant legislation into line with the provisions of articles 2 (c) and 5 (c) of the Convention.

447. The Committee notes with concern that, according to certain sources, the Bethechilokono people are allegedly not invited to participate in decisions affecting them, including decisions concerning management of cultural sites and other cultural objects.

The Committee draws the attention of the State party to its general recommendation XXIII concerning the rights of indigenous peoples and recommends the establishment of mechanisms guaranteeing participation by the Bethechilokono people in decisions affecting them.

448. The Committee is concerned at the apparent lack of television programmes in Kweyol on the three national channels.

It recommends that the State party consider the inclusion in public radio and television programmes of broadcasts in Kweyol and other minority languages.

449. The Committee notes that access to education and training by indigenous peoples appears very limited and is concerned at the fact that Kweyol is not taught in the education system.

The Committee encourages the State party to take measures to facilitate access to education by members of indigenous peoples and to ensure, as far as possible, that members of indigenous peoples have the opportunity to learn Kweyol and to receive instruction in this language.

450. The Committee notes with concern that, according to information received, the cultural rights of the indigenous peoples are allegedly threatened by the destruction of sacred and cultural sites and objects.

It requests the State party to take measures to preserve and protect the cultural heritage of the indigenous peoples and to provide it with information on the remedies available to members of indigenous peoples to contest the destruction of their sacred and cultural sites and to claim, whenever appropriate, the right to fair and equitable compensation.

451. The Committee takes note of the lack of information on remedies available to victims of racial discrimination, as well as on the number of complaints and decisions taken by the courts and authorities with competence in the field of racial discrimination.

It invites the State party to provide it with information on this matter.

452. The Committee is concerned by reports of the alleged inclusion in certain school textbooks of racist passages concerning the Bethechilokono people.

It urges the State party to delete all racist content from school textbooks, to take measures to punish those who make such references, to provide education that will eliminate racial prejudices and to promote understanding and tolerance among different racial and ethnic groups.

453. The Committee, in accordance with its general recommendation X, encourages the Government of Saint Lucia to avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Office of the United Nations High Commissioner for Human Rights, with a view to formulating and submitting as soon as possible a report drafted in accordance with the Committee's reporting guidelines.

454. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention and recommends that it consider doing so.

455. The Committee strongly recommends that the State party ratify the amendment to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment. A similar appeal was reiterated by the Assembly in resolution 58/160.

456. The Committee draws the attention of the State party to the provisions of the Durban Declaration and Programme of Action, according to which the International Convention on the Elimination of All Forms of Racial Discrimination is the principal international instrument for the elimination of racism, racial discrimination, xenophobia and related intolerance and calling on States to cooperate with the Committee in order to promote the effective implementation of the Convention.

457. The Committee decides that a note should be sent to the Government of Saint Lucia setting out its reporting obligations under the Convention, urging that the dialogue with the Committee start as soon as possible, and requesting the State party to submit its initial report as soon as possible. The Committee draws the attention of the State party to the availability of its members to conduct a mission to Saint Lucia with a view to initiating a dialogue with the State party and assisting it to honour its obligations under the Convention.

458. The Committee requests that the State party give wide publicity to the Convention, both in English and in Kweyol, and draw the attention of the Ombudsman to this instrument.

VI. CONSIDERATION OF COMMUNICATIONS UNDER ARTICLE 14 OF THE CONVENTION

459. Under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, individuals or groups of individuals who claim that any of their rights enumerated in the Convention have been violated by a State party and who have exhausted all available domestic remedies may submit written communications to the Committee on the Elimination of Racial Discrimination for consideration. A list of 45 States parties which have recognized the competence of the Committee to consider such communications can be found in annex I. In the period under review, two more States have made the declaration under article 14: Liechtenstein and Venezuela.

460. Consideration of communications under article 14 of the Convention takes place in closed meetings (rule 88 of the Committee's rules of procedure). All documents pertaining to the work of the Committee under article 14 (submissions from the parties and other working documents of the Committee) are confidential.

461. Following the Committee's opinion on communication No. 26/2002 (*Stephen Hagan v. Australia*),[1] the Government of Australia transmitted observations on 28 January 2004, noting that the Committee, in its views, had not identified any violation by Australia of its obligations under the Convention. The Government of Australia accordingly informed the Committee that it did not propose to take measures to implement the Committee's recommendation calling for the removal of an offending term of racial content from a public sign. The Government considered that the term in question was used in circumstances in which there was no basis for concluding that it purported to promote or incite hatred or discrimination in breach of the Convention. In a letter dated 7 April 2004, the Committee responded to the Government and observed that, while it had not found a violation of the Convention in connection with communication No. 26/2002, it had decided to make use of the faculty laid down in rule 95, paragraph 3, of its rules of procedure, which provides that "the opinion of the Committee shall be forwarded … together with any suggestions and recommendations the Committee may wish to make". The Committee noted with regret that the Government of Australia had not implemented its recommendation, expressing the hope that it would reconsider its position.

Note

[1] See *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 18* (A/58/18), para. 575 and annex III, sect. A.

VII. THEMATIC DISCUSSION

462. In examining the periodic reports of States parties, the Committee has found that some forms of discrimination within the terms of article 1 of the Convention are common to several States and can usefully be examined from a more general perspective. In August 2000, the Committee organized a thematic debate on the issue of discrimination against Roma and, in August 2002, it held a discussion on descent-based discrimination. These two thematic debates led to the adoption of general recommendation XXVII on discrimination against Roma and general recommendation XXIX on descent-based discrimination. At its sixty-third session, the Committee decided to hold at its next session a third thematic discussion on non-citizens and racial discrimination, with a view to possible further action. In this connection, it requested information from States parties concerning non-citizens residing in their respective territories, their economic and social situation, and policies for eliminating racial discrimination against them.

463. This third thematic discussion to be organized by the Committee was held at its 1625th meeting, on 2 March 2004; it was preceded by a meeting with concerned NGOs, Governments, and other United Nations human rights mechanisms and entities held on 1 March 2004 (see CERD/C/SR.1624).

464. The Committee was able to draw upon extensive information from its own activities, including that contained in periodic reports submitted by States parties and its dialogues with State delegations. In addition, a number of States replied to the invitation extended by the Committee to submit additional written information. Furthermore, the Committee had relevant information from other United Nations human rights mechanisms and from other United Nations agencies and bodies. In particular, the Committee considered the final report of the Special Rapporteur on the rights of non-citizens of the Sub Commission on the Promotion and Protection of Human Rights, Mr. David Weissbrodt (E/CN.4/Sub.2/2003/23). NGOs representing non-citizens claiming to be victims of racial discrimination and global human rights organizations also submitted written information.

465. During the informal meeting, NGOs raised many issues of concern. In response to the invitation addressed to them, some government representatives, the Special Rapporteur on the rights of non-citizens, two mandate-holders of the Commission on Human Rights and representatives from other United Nations entities addressed the gathering.

466. A majority of the Committee members addressed the issues in the general debate, which took place in the morning of 2 March 2004 (see CERD/C/SR.1625). The working group convened by Mr. Kjaerum met twice for the elaboration of a draft general recommendation.

467. Based on the information submitted and collected for the thematic discussion, on the outcome of the general debate and on the draft prepared by the working group, the Committee, following extensive debate adopted, at its 1649th meeting, its general recommendation XXX on non-citizens and racial discrimination (see chapter VIII).

468. At its sixty-fifth session, the Committee decided that it would organize a thematic discussion on the prevention of genocide at its sixty-sixth session. In addition, the Committee decided to entrust Mr. de Gouttes with the task of drafting a new general recommendation on racial discrimination in the administration of justice, to be discussed at that session. It also decided to hold general debates at its future sessions on various issues of interest. Such a debate will be held at the Committee's sixty-sixth session on the question of multiculturalism.

VIII. GENERAL RECOMMENDATIONS

469. The Committee adopted the following general recommendation at its sixty-fifth session:

General recommendation XXX on discrimination against non-citizens

The Committee on the Elimination of Racial Discrimination,

Recalling the Charter of the United Nations and the Universal Declaration of Human Rights, according to which all human beings are born free and equal in dignity and rights and are entitled to the rights and freedoms enshrined therein without distinction of any kind, and the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination,

Recalling the Durban Declaration in which the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, recognized that xenophobia against non-nationals, particularly migrants, refugees and asylum-seekers, constitutes one of the main sources of contemporary racism and that human rights violations against members of such groups occur widely in the context of discriminatory, xenophobic and racist practices,

Noting that, based on the International Convention on the Elimination of All Forms of Racial Discrimination and general recommendations XI and XX, it has become evident from the examination of the reports of States parties to the Convention that groups other than migrants, refugees and asylum-seekers are also of concern, including undocumented non-citizens and persons who cannot establish the nationality of the State on whose territory they live, even where such persons have lived all their lives on the same territory,

Having organized a thematic discussion on the issue of discrimination against non-citizens and received the contributions of members of the Committee and States parties, as well as contributions from experts of other United Nations organs and specialized agencies and from non-governmental organizations,

Recognizing the need to clarify the responsibilities of States parties to the International Convention on the Elimination of All Forms of Racial Discrimination with regard to non-citizens,

Basing its action on the provisions of the Convention, in particular article 5, which requires States parties to prohibit and eliminate discrimination based on race, colour, descent, and national or ethnic origin in the enjoyment by all persons of civil, political, economic, social and cultural rights and freedoms,

Affirms that:

I. Responsibilities of States parties to the Convention

1. Article 1, paragraph 1, of the Convention defines racial discrimination. Article 1, paragraph 2 provides for the possibility of differentiating between citizens and non-citizens. Article 1, paragraph 3 declares that, concerning nationality, citizenship or naturalization, the legal provisions of States parties must not discriminate against any particular nationality;

2. Article 1, paragraph 2, must be construed so as to avoid undermining the basic prohibition of discrimination; hence, it should not be interpreted to detract in any way from the rights and freedoms recognized and enunciated in particular in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights;

3. Article 5 of the Convention incorporates the obligation of States parties to prohibit and eliminate racial discrimination in the enjoyment of civil, political, economic, social and cultural rights. Although some of these rights, such as the right to participate in elections, to vote and to stand for election, may be confined to citizens, human rights are, in principle, to be enjoyed by all persons. States parties are under an obligation to guarantee equality between citizens and non-citizens in the enjoyment of these rights to the extent recognized under international law;

4. Under the Convention, differential treatment based on citizenship or immigration status will constitute discrimination if the criteria for such differentiation, judged in the light of the objectives and purposes of the Convention, are not applied pursuant to a legitimate aim, and are not proportional to the achievement of this aim. Differentiation within the scope of article 1, paragraph 4, of the Convention relating to special measures is not considered discriminatory;

5. States parties are under an obligation to report fully upon legislation on non-citizens and its implementation. Furthermore, States parties should include in their periodic reports, in an appropriate form, socio-economic data on the non-citizen population within their jurisdiction, including data disaggregated by gender and national or ethnic origin;

Recommends,

Based on these general principles, that the States parties to the Convention, as appropriate to their specific circumstances, adopt the following measures:

II. Measures of a general nature

6. Review and revise legislation, as appropriate, in order to guarantee that such legislation is in full compliance with the Convention, in particular regarding the effective enjoyment of the rights mentioned in article 5, without discrimination;

7. Ensure that legislative guarantees against racial discrimination apply to non-citizens regardless of their immigration status, and that the implementation of legislation does not have a discriminatory effect on non-citizens;

8. Pay greater attention to the issue of multiple discrimination faced by non-citizens, in particular concerning the children and spouses of non-citizen workers, to refrain from applying different standards of treatment to female non-citizen spouses of citizens and male non-citizen spouses of citizens, to report on any such practices and to take all necessary steps to address them;

9. Ensure that immigration policies do not have the effect of discriminating against persons on the basis of race, colour, descent, or national or ethnic origin;

10. Ensure that any measures taken in the fight against terrorism do not discriminate, in purpose or effect, on the grounds of race, colour, descent, or national or ethnic origin and that non-citizens are not subjected to racial or ethnic profiling or stereotyping;

III. Protection against hate speech and racial violence

11. Take steps to address xenophobic attitudes and behaviour towards non-citizens, in particular hate speech and racial violence, and to promote a better understanding of the principle of non-discrimination in respect of the situation of non-citizens;

12. Take resolute action to counter any tendency to target, stigmatize, stereotype or profile, on the basis of race, colour, descent, and national or ethnic origin, members of "non-citizen" population groups, especially by politicians, officials, educators and the media, on the Internet and other electronic communications networks and in society at large;

IV. Access to citizenship

13. Ensure that particular groups of non-citizens are not discriminated against with regard to access to citizenship or naturalization, and to pay due attention to possible barriers to naturalization that may exist for long-term or permanent residents;

14. Recognize that deprivation of citizenship on the basis of race, colour, descent, or national or ethnic origin is a breach of States parties' obligations to ensure non-discriminatory enjoyment of the right to nationality;

15. Take into consideration that in some cases denial of citizenship for long-term or permanent residents could result in creating disadvantage for them in access to employment and social benefits, in violation of the Convention's anti-discrimination principles;

16. Reduce statelessness, in particular statelessness among children, by, for example, encouraging their parents to apply for citizenship on their behalf and allowing both parents to transmit their citizenship to their children;

17. Regularize the status of former citizens of predecessor States who now reside within the jurisdiction of the State party;

V. Administration of justice

18. Ensure that non-citizens enjoy equal protection and recognition before the law and in this context, to take action against racially motivated violence and to ensure the access of victims to effective legal remedies and the right to seek just and adequate reparation for any damage suffered as a result of such violence;

19. Ensure the security of non-citizens, in particular with regard to arbitrary detention, as well as ensure that conditions in centres for refugees and asylum-seekers meet international standards;

20. Ensure that non-citizens detained or arrested in the fight against terrorism are properly protected by domestic law that complies with international human rights, refugee and humanitarian law;

21. Combat ill-treatment of and discrimination against non-citizens by police and other law enforcement agencies and civil servants by strictly applying relevant legislation and regulations providing for sanctions and by ensuring that all officials dealing with non-citizens receive special training, including training in human rights;

22. Introduce in criminal law the provision that committing an offence with racist motivation or aim constitutes an aggravating circumstance allowing for a more severe punishment;

23. Ensure that claims of racial discrimination brought by non-citizens are investigated thoroughly and that claims made against officials, notably those concerning discriminatory or racist behaviour, are subject to independent and effective scrutiny;

24. Regulate the burden of proof in civil proceedings involving discrimination based on race, colour, descent, and national or ethnic origin so that once a non-citizen has established a prima facie case that he or she has been a victim of such discrimination, it shall be for the respondent to provide evidence of an objective and reasonable justification for the differential treatment;

VI. Expulsion and deportation of non-citizens

25. Ensure that laws concerning deportation or other forms of removal of non-citizens from the jurisdiction of the State party do not discriminate in purpose or effect among non-citizens on the basis of race, colour or ethnic or national origin, and that non-citizens have equal access to effective remedies, including the right to challenge expulsion orders, and are allowed effectively to pursue such remedies;

26. Ensure that non-citizens are not subject to collective expulsion, in particular in situations where there are insufficient guarantees that the personal circumstances of each of the persons concerned have been taken into account;

27. Ensure that non-citizens are not returned or removed to a country or territory where they are at risk of being subject to serious human rights abuses, including torture and cruel, inhuman or degrading treatment or punishment;

28. Avoid expulsions of non-citizens, especially of long-term residents, that would result in disproportionate interference with the right to family life;

VII. Economic, social and cultural rights

29. Remove obstacles that prevent the enjoyment of economic, social and cultural rights by non-citizens, notably in the areas of education, housing, employment and health;

30. Ensure that public educational institutions are open to non-citizens and children of undocumented immigrants residing in the territory of a State party;

31. Avoid segregated schooling and different standards of treatment being applied to non-citizens on grounds of race, colour, descent, and national or ethnic origin in elementary and secondary school and with respect to access to higher education;

32. Guarantee the equal enjoyment of the right to adequate housing for citizens and non-citizens, especially by avoiding segregation in housing and ensuring that housing agencies refrain from engaging in discriminatory practices;

33. Take measures to eliminate discrimination against non-citizens in relation to working conditions and work requirements, including employment rules and practices with discriminatory purposes or effects;

34. Take effective measures to prevent and redress the serious problems commonly faced by non-citizen workers, in particular by non-citizen domestic workers, including debt bondage, passport retention, illegal confinement, rape and physical assault;

35. Recognize that, while States parties may refuse to offer jobs to non-citizens without a work permit, all individuals are entitled to the enjoyment of labour and employment rights, including the freedom of assembly and association, once an employment relationship has been initiated until it is terminated;

36. Ensure that States parties respect the right of non-citizens to an adequate standard of physical and mental health by, inter alia, refraining from denying or limiting their access to preventive, curative and palliative health services;

37. Take the necessary measures to prevent practices that deny non-citizens their cultural identity, such as legal or de facto requirements that non-citizens change their name in order to obtain citizenship, and to take measures to enable non-citizens to preserve and develop their culture;

38. Ensure the right of non-citizens, without discrimination based on race, colour, descent, and national or ethnic origin, to have access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafés, theatres and parks;

39. The present general recommendation replaces general recommendation XI (1993).

IX. CONSIDERATION OF COPIES OF PETITIONS, COPIES OF REPORTS AND OTHER INFORMATION RELATING TO TRUST AND NON-SELF-GOVERNING TERRITORIES TO WHICH GENERAL ASSEMBLY RESOLUTION 1514 (XV) APPLIES, IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION

470. Under article 15 of the Convention, the Committee on the Elimination of Racial Discrimination is empowered to consider copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories to which General Assembly resolution 1514 (XV) applies, transmitted to it by the competent bodies of the United Nations, and to submit to them and to the General Assembly its expressions of opinion and recommendations relating to the principles and objectives of the Convention in those territories.

471. At the request of the Committee, Mr. Pillai examined the documents made available to the Committee in order for it to perform its functions pursuant to article 15 of the Convention. At its 1670th meeting (sixty-fifth session), Mr. Pillai presented his report, for the preparation of which he had taken into account the reports of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples covering its work during 2003 (A/58/23) and copies of the working papers on the 16 Territories prepared by the Secretariat for the Special Committee and the Trusteeship Council in 2003 and listed in document CERD/C/479 as well as in annex IV to the present report.

472. The Committee noted, as it has done in the past, that it was difficult to fulfil its functions comprehensively under article 15 of the Convention as a result of the absence of any copies of petitions pursuant to paragraph 2 (a) and owing to the fact that the copies of the reports received pursuant to paragraph 2 (b) contain only scant information directly relating to the principles and objectives of the Convention.

473. The Committee would like to repeat its earlier observation that in the reports of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, reference is made to the relations between the Special Committee and the Committee's continuous monitoring of related developments in Territories, having regard to the relevant provisions of article 15 of the Convention. The Committee further noted, however, that issues concerning racial discrimination, and directly relating to the principles and objectives of the Convention, are not reflected in the sections of the report of the Special Committee which deal with a review of its work and the future work of the Special Committee.

X. ACTION TAKEN BY THE GENERAL ASSEMBLY AT ITS FIFTY-EIGHTH SESSION

474. The Committee considered this agenda item at its sixty-fourth and sixty-fifth sessions. For its consideration of this item the Committee had before it General Assembly resolution 58/160 of 22 December 2003 in which the Assembly, inter alia: (a) urged States that had not yet become parties to the Convention to ratify or accede to it as a matter of urgency, with a view to achieving universal ratification by 2005; (b) urged States parties to the Convention to consider making the declaration provided for in article 14 thereof; (c) urged States parties to withdraw reservations contrary to the object and purpose of the Convention; (d) invited States to ratify the amendment to article 8 of the Convention; (e) urged States to intensify their efforts to implement the obligations they have accepted under article 4 of the Convention; and (f) noted that the Committee holds that the prohibition of the dissemination of ideas based on racial superiority or racial hatred is compatible with the right to freedom of opinion and expression.

475. Concerning the effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights, the Committee had before it the report of the sixteenth meeting of persons chairing the human rights treaty bodies (A/59/254).

476. At its 1669th meeting, the Committee discussed the report of the Secretariat presented at the third inter-committee meeting on proposed guidelines on an expanded core document and treaty-specific targeted reports as well as harmonized guidelines for reporting to all treaty bodies (HRI/MC/2004/3). This discussion was held in the presence of Mr. Kamel Filali, appointed rapporteur on this issue by the third inter-committee meeting.

XI. THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION; FOLLOW-UP TO THE WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

477. The Committee considered the question of the follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Third Decade to Combat Racism and Racial Discrimination at its sixty-fourth and sixty-fifth sessions.

478. At its sixty-fourth session, the Committee was informed of, and discussed, the second session of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action (see E/CN.4/2004/20) held from 26 January to 6 February 2004 and, in particular, the mandate of the Working Group relating to the preparation of complementary international standards to strengthen and update international instruments against racism, racial discrimination, xenophobia and related intolerance in all their aspects. Following the recommendation of the Working Group, which requested "OHCHR to convey its invitation to CERD for its written views on the effectiveness of the Convention, including its implementation" (ibid., para. 81, recommendation 20), the Committee, during its sixty-fifth session, discussed its participation in the third session of the Working Group. The Committee decided to request that it be duly represented at that meeting, in view of the fact that the International Convention on the Elimination of All Forms of Racial Discrimination is the main international legal instrument in that field. Furthermore, it discussed its views on the effectiveness of the Convention, including its implementation, and adopted a working paper which it requested OHCHR to transmit to the Working Group prior to its third session.

XII. OVERVIEW OF THE METHODS OF WORK OF THE COMMITTEE

479. An overview of the methods of work of the Committee was included in its report to the fifty-first session of the General Assembly.[1] It highlighted changes introduced in recent years and was designed to improve the Committee's procedures.

480. At its sixtieth session, the Committee decided to review its working methods at its sixty-first session and asked Mr. Valencia Rodríguez, convenor of an open-ended working group on this issue, to prepare and submit a working paper for consideration. The working paper submitted by Mr. Valencia Rodríguez was discussed and revised further by the Committee at its sixty-second and sixty-third sessions and adopted at the sixty-third session, with the exception of one paragraph which remains pending. The text of the paper as adopted was included in an annex to the Committee's report to the fifty-eighth session of the General Assembly.[2]

481. At its sixty-fourth session, the Committee continued to discuss its working methods and, in particular, the question of follow-up to the recommendations addressed to States parties after consideration of their initial or periodic reports. The Committee decided to add a new paragraph to rule 65 of its rules of procedure concerning the request for additional information from States parties. The text of rule 65 as amended can be found in annex III.

482. At its 1670th meeting (sixty-fifth session), the Committee decided, in accordance with paragraph 2 of rule 65 of its rules of procedure, to appoint the following members as coordinator and alternate coordinator to further the implementation of paragraph 1 of rule 65 of its rules of procedure concerning requests for additional information from States parties.

Coordinator:	Mr. Morten Kjaerum (2004-2006)
Alternate:	Mr. Nourredine Amir (2004-2006)

483. At its 1659th meeting (sixty-fifth session), the Committee established a working group on early warning and urgent action procedures. This working group includes the following five members of the Committee:

Coordinator:	Ms. Patricia Nozipho January-Bardill (2004-2006)
Members:	Mr. Alexei S. Avtonomov (2004-2006) Mr. Jose Francisco Cali Tzay (2004-2006) Mr. Régis de Gouttes (2004-2006) Mr. Agha Shahi (2004-2006)

484. The working group met for the first time during the sixty-fifth session of the Committee to discuss a number of cases brought to its attention.

Notes

[1] *Official Reports of the General Assembly, Fifty-first Session, Supplement No. 18* (A/51/18), paras. 587-627.

[2] Ibid, *Fifty-eighth Session, Supplement No. 18* (A/58/18), annex IV.

Annex I

STATUS OF THE CONVENTION

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination (169) as at 20 August 2004*

Afghanistan, Albania, Algeria, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Guatemala, Guinea, Guyana, Haiti, Holy See, Hungary, Honduras, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Morocco, Mozambique, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Papua New Guinea, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Saudi Arabia, Senegal, Serbia and Montenegro, Seychelles, Sierra Leone, Slovakia, Slovenia, Solomon Islands, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, The former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Uzbekistan, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

B. States parties that have made the declaration under article 14, paragraph 1, of the Convention (45) as at 20 August 2004

Algeria, Australia, Austria, Azerbaijan, Belgium, Brazil, Bulgaria, Chile, Costa Rica, Cyprus, Czech Republic, Denmark, Ecuador, Finland, France, Germany, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Mexico, Monaco, Netherlands, Norway, Peru, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Senegal, Serbia and Montenegro, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Ukraine, Uruguay and Venezuela.

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* The following States have signed but not ratified the Convention: Andorra, Bhutan, Comoros, Grenada, Guinea-Bissau, Nauru and Sao Tome and Principe.

C. States parties that have accepted the amendments to the Convention adopted at the Fourteenth Meeting of States Parties* (39) as at 20 August 2004

Australia, Bahamas, Belize, Bahrain, Bulgaria, Burkina Faso, Canada, China, Colombia, Costa Rica, Cuba, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Guinea, Holy See, Iceland, Iraq, Ireland, Liechtenstein, Luxembourg, Mexico, Netherlands (for the Kingdom in Europe and the Netherlands Antilles and Aruba), New Zealand, Norway, Poland, Republic of Korea, Saudi Arabia, Seychelles, Sweden, Switzerland, Syrian Arab Republic, Trinidad and Tobago, Ukraine, United Kingdom of Great Britain and Northern Ireland, Zimbabwe.

*** For the amendments to enter into force, two thirds of the States parties to the Convention must accept it.**

Annex II

AGENDAS OF THE SIXTY-FOURTH AND SIXTY-FIFTH SESSIONS

A. Sixty-fourth session (23 February-12 March 2004)

1. Solemn declaration by the newly elected members of the Committee under rule 14 of the rules of procedure.
2. Election of officers, according to rule 15 of the rules of procedure.
3. Adoption of the agenda.
4. Organizational and other matters.
5. Prevention of racial discrimination, including early warning measures and urgent action procedures.
6. Consideration of reports, comments and information submitted by States parties under article 9 of the Convention.
7. Submission of reports by States parties under article 9, paragraph 1, of the Convention.
8. Consideration of communications under article 14 of the Convention.
9. Follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

B. Sixty-fifth session (2-20 August 2004)

1. Adoption of the agenda.
2. Organizational and other matters.
3. Prevention of racial discrimination, including early warning measures and urgent action procedures.
4. Consideration of reports, comments and information submitted by States parties under article 9 of the Convention.
5. Submission of reports by States parties under article 9, paragraph 1, of the Convention.
6. Consideration of communications under article 14 of the Convention.
7. Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other Territories in which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention.
8. Follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.
9. Report of the Committee to the General Assembly at its fifty-ninth session under article 9, paragraph 2, of the Convention.

Annex III

OVERVIEW OF THE METHODS OF WORK OF THE COMMITTEE

Rules of procedure

Request for additional information

Rule 65

1. If the Committee decides to request an additional report or further information from a State party under the provisions of article 9, paragraph 1, of the Convention, it may indicate the manner as well as the time within which such additional report or further information shall be supplied and shall transmit its decision to the Secretary-General for communication, within two weeks, to the State party concerned.

2. In order to further the implementation of the above paragraph, the Committee shall appoint a coordinator for a period of two years. In fulfilling his/her tasks, the coordinator shall cooperate with country rapporteurs.

Note: This document complements and amends the rules of procedure of the Committee on the Elimination of Racial Discrimination (CERD/C/35/Rev.3).

Annex IV

DOCUMENTS RECEIVED BY THE COMMITTEE AT ITS SIXTY-FOURTH AND SIXTY-FIFTH SESSIONS IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION

The following is a list of the working papers referred to in chapter V submitted by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples:

A/AC.109/2003/1	United States Virgin Islands
A/AC.109/2003/2	Montserrat
A/AC.109/2003/3	Gibraltar
A/AC.109/2003/4	St. Helena
A/AC.109/2003/5	British Virgin Islands
A/AC.109/2003/7	New Caledonia
A/AC.109/2003/8	Turks and Caicos Islands
A/AC.109/2003/9	Cayman Islands
A/AC.109/ 2003/10	Tokelau
A/AC.109/ 2003/11	Anguilla
A/AC.109/2003/12	American Samoa
A/AC.109/2003/13	Bermuda
A/AC.109/2003/14	Western Sahara
A/AC.109/2003/15	Guam
A/AC.109/2003/16	Pitcairn
A/AC.109/2003/17	Falkland Islands (Malvinas)

Annex V

COUNTRY RAPPORTEURS FOR REPORTS OF STATES PARTIES CONSIDERED BY THE COMMITTEE AND FOR STATES PARTIES CONSIDERED UNDER THE REVIEW PROCEDURE AT THE SIXTY-FOURTH AND SIXTY-FIFTH SESSIONS

Initial and periodic reports considered by the Committee and countries considered under the review procedure	Country rapporteur
Bahamas Fifth to fourteenth periodic reports (CERD/C/428/Add.1)	Mr. Amir
Brazil Fourteenth to seventeenth periodic reports (CERD/C/431/Add.8)	Mr. Thornberry
Lebanon Fourteenth and fifteenth periodic reports (CERD/C/383/Add.2)	Mr. Tang
Libyan Arab Jamahiriya Fifteenth to seventeenth periodic reports (CERD/C/431/Add.5)	Mr. Pillai
Nepal Fifteenth and sixteenth periodic reports (CERD/C/452/Add.2)	Mr. Kjaerum
Netherlands Fifteenth and sixteenth periodic reports (CERD/C/452/Add.3)	Mr. Herndl
Saint Lucia (review procedure) Overdue reports: initial to seventh periodic reports due from 1991 to 2003	Mr. de Gouttes
Spain Sixteenth and seventeenth periodic reports (CERD/C/431/Add.7)	Mr. Lindgren Alves
Suriname Initial to tenth periodic reports (CERD/C/446/Add.1)	Mr. de Gouttes

Sweden **Fifteenth and sixteenth periodic reports** **(CERD/C/452/Add.4)**	**Mr. Sicilianos**
Argentina **Sixteenth to eighteenth periodic reports** **(CERD/C/476/Add.2)**	**Mr. Thornberry**
Belarus **Fifteenth to seventeenth periodic reports** **(CERD/C/431/Add.9)**	**Mr. Tang**
Kazakhstan **Initial to third periodic reports** **(CERD/C/439/Add.2)**	**Mr. Valencia Rodríguez**
Madagascar **Tenth to eighteenth periodic reports** **(CERD/C/476/Add.1)**	**Mr. Amir**
Mauritania **Six and seventh periodic reports** **(CERD/C/421/Add.1)**	**Ms. Dah**
Portugal **Tenth and eleventh periodic reports** **(CERD/C/447/Add.1)**	**Mr. Herndl**
Slovakia **Fourth and fifth periodic reports** **(CERD/C/419/Add.2)**	**Mr. Sicilianos**
Tajikistan **Initial to fifth periodic reports** **(CERD/C/463/Add.1)**	**Mr. Avtonomov**

Annex VI

COMMENTS OF STATES PARTIES ON THE DECISIONS AND CONCLUDING OBSERVATIONS ADOPTED BY THE COMMITTEE

Fifth to fourteenth periodic reports of the Bahamas

The following comments were sent on 18 June 2004 by the Permanent Representative of the Bahamas to the United Nations concerning the concluding observations adopted by the Committee following the consideration of the fifth to fourteenth periodic reports submitted by the State party:*

"Where no specific comments are offered, The Bahamas has taken note of the recommendations and will forward them to the appropriate authorities for consideration and follow-up, as was indicated during the dialogue between The Bahamas' delegation and the Committee on 27 February 2004.

"Concerning paragraph 3 it was not made clear to The Bahamas' delegation during its dialogue with the Committee exactly what information the Committee felt was missing from the report regarding the practical application of the Convention. The delegation provided information during the course of the dialogue that supplemented that already contained in the report, regarding the application of the Convention in internal law, and the anti-discrimination provisions in The Bahamas Constitution. Accordingly, The Bahamas would welcome further clarification from the Committee as to the information it feels is missing.

"Concerning paragraph 14 as indicated during the course of the dialogue with the Committee, The Bahamas Government is unaware of any 'reports of statements and press articles inciting racial discrimination against migrants'. It will be recalled that the delegation had requested of the Committee, in its dialogue with the Committee on 27 February 2004, information regarding the sources of these reports. In light of the Committee's recommendation to conduct an inquiry into these allegations, The Bahamas would once again request that the Committee provide the relevant information regarding the sources of these reports, so that the allegations may be properly investigated.

"Concerning paragraph 15 as indicated during the course of the dialogue with the Committee, the Employment Act of 2001 provides for legal protection and integration as it precludes discrimination in the workplace, regardless of legal status.

"The impact of the policy of Bahamianization on the economic and social standing of migrants does not arise given its definition as stated in paragraph 204 of The Bahamas' report. It should be understood that Bahamianization applies primarily to skilled services, such as banking, for which work permits are required for foreign nationals, with the stipulation that training should also be provided to eligible Bahamians to eventually perform these tasks. This is essentially for the purposes of building national capacity and the knowledge and skills base of the Bahamian populace to allow them to participate effectively in the global economy. It is therefore not seen as discriminatory in nature against non-citizens per se, but rather as a policy designed to build national capacity, and empower more Bahamians to participate effectively in the economic development of the country.

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* See paragraphs 18-45 of the present report. The comments refer to the unedited version of the concluding observations.

"With respect to Haitian immigrants, the vast majority of them are employed in areas to which Bahamians are not attracted and for which no Bahamianization policy exists, such as farming, gardening, domestic help, etc., while migrants from other countries tend to be employed in the skilled services such as banking, insurance, accounting, etc. to which the Bahamianization policy does apply.

"With respect to housing, the policy of the Government of The Bahamas is to provide affordable housing for all Bahamian citizens. However, irrespective of this policy, should a legal resident apply for affordable housing, their application is given equal consideration, based on information provided by the applicant.

"In light of the above, it is the Government's position that the policy of 'Bahamianization' in employment and housing has little, if any, effect on migrants' living conditions.

"With respect to the overall question of the living conditions of migrants, it should be recalled that The Bahamas' delegation indicated that living conditions vary in different migrant communities. It is a fact that living conditions in some communities of Haitian migrants are not ideal, as they are characterized by poorly constructed dwellings, many of which have electricity and running water through illegal means only. However, as stated during the dialogue, it should be noted that the Government takes steps to impose some health and safety regulations on these communities, including through a process of environmental health inspections to ensure proper sewage and garbage disposal. Residents of these communities also have access to basic social services in the wider communities, including health and education.

"It will be recalled that the delegation also informed the Committee that there are other areas of congregation of migrants, including the wealthy enclaves of Lyford Cay and Port New Providence in the capital city, where a number of foreign-born citizens and permanent residents make their homes. The living conditions in these areas far exceed that of the average Bahamian.

"Concerning paragraph 17 as stated during the dialogue with the Committee, it is the case that persons who are intercepted entering The Bahamas without proper documents may face detention. As far as The Bahamas is aware, detention of undocumented migrants during the determination of their status is a widespread, logical and accepted practice across all countries, developed and developing. However, The Bahamas wishes to reiterate that detained undocumented migrants are treated humanely and are subject to screening procedures on an expedited basis, to determine their medical and immigration status.

"Once the screening process is satisfied in accordance with international safeguards, every effort is made to return persons to their country of citizenship or legal residence before they are detained. Once we are satisfied that the individual is not in need of international protection, and is eligible for repatriation to his or her homeland, the necessary arrangements are made.

"As indicated to the Committee, detention rarely lasts longer than a few days. With respect to the Committee's mention of reports of detention lasting 'a year and more, depending on migrants' nationalities', this assertion was not put to the delegation during the dialogue. The Bahamas would have welcomed an opportunity to question the source of such reports and to address this assertion directly during the dialogue. Once again, should the Committee wish to provide information on the source(s) of this assertion, The Bahamas would be happy to address it as appropriate.

"The Bahamas takes note, however, of the Committee's recommendation to institute a right of appeal against a detention order.

"Concerning paragraph 18 The Bahamas wishes to point out that this concern regarding asylum-seekers was addressed thoroughly during the delegation's dialogue with the Committee. In the interest of the fullness of the record, however, the information provided to the Committee will be repeated.

"With respect to the guaranteed protection of asylum-seekers against return to a country where their lives or health would be at risk, the guarantees are those found in the 1951 Refugee Convention and its 1967 Protocol, to which The Bahamas is a State party. The provisions of these instruments are strictly adhered to by the relevant Bahamian authorities in respect of all asylum-seekers. Furthermore, as previously indicated, there is constant collaboration with the Office of the United Nations High Commissioner for Refugees (UNHCR), to ensure that screening procedures are in consonance with international safeguards and norms. This would include, as a matter of course, the provision of information, interpreters, legal assistance and judicial remedies.

"All Immigration Officers in direct contact with prospective asylum-seekers, which would amount to approximately 80 per cent of the staff of the Department of Immigration, have received training from UNHCR. Relevant Officers of the Royal Bahamas Defence Force, the Royal Bahamas Police Force and the Ministry of Foreign Affairs are also included in this training. Most recently, UNHCR representatives conducted a re-training session on status determination, from 24 to 25 February 2004.

"Since 1995, The Bahamas has granted asylum to 102 persons. The number of applications received varies from year to year. In 2001, one case was recommended for refugee status, and in 2002, three cases were recommended. During 2003, 13 petitions were received, 6 of which were recommended for refugee status, having undergone the review process described above.

"Every effort is made to identify individuals in need of protection through the established procedures to ensure non-refoulement. UNHCR Officials (Washington Office) are fully involved in the determination process, and assist with case assessments. Once a recommendation has been made that an individual is eligible for refugee status, efforts are made to release such individuals from detention and place them with sponsors, pending a final decision on their status.

"Concerning paragraph 19 as indicated during the dialogue, The Bahamas is indeed in the process of ensuring the application of the 1951 Convention relating to the Status of Refugees and its 1967 Protocol in internal law. A bill has been drafted for this purpose and is currently awaiting approval by the Cabinet. With respect to the principle of non-refoulement, as indicated above, The Bahamas adheres strictly to the provisions of the Convention and Protocol, and therefore observes full respect for this principle.

"Concerning paragraph 20 The Bahamas is very concerned that the reports of which the Committee speaks regarding conditions at the Carmichael Road Detention Centre were not brought to the attention of The Bahamas delegation during its dialogue with the Committee. The Bahamas would have welcomed an opportunity to question the source of such reports and to address this issue directly during the dialogue.

"The delegation did in fact provide information regarding the conditions at the detention centre, as well as the services and facilities provided by a consortium of government agencies. In the interest of the fullness of the record, however, the information provided to the Committee will be repeated.

"The Department of Social Services provides food and clothing. The Ministry of Health provides regular health care. Dorms are provided at the Detention Centre, which are separated into male, female and family areas. The illegal immigrants are not detained for more than a few days, usually no more than a week maximum, which does not give rise to the need to provide schooling for the children. Those who are in need of medical treatment are taken to the hospitals or clinics. Detainees at the Detention Centre are always treated humanely. This is evidenced by illegal immigrants being detained at the purpose-built Detention Centre, rather than in prison, which unfortunately is the case in many other countries in the region. Housing in the Detention Centre also facilitates the processing of immigrants to determine their status. The Detention Centre is visited constantly by international authorities such as those from UNHCR. With respect to issues of access to the Detention Centre by non-governmental organizations, access is granted to NGOs and other concerned entities upon request.

"The detention centre is governed by a 'cost sharing' arrangement between several government ministries, representing a collaborative effort whereby a wide range of services are provided to illegal migrant detainees quickly, comprehensively and free of charge.

"These 'cost sharing' arrangements are divided among four government ministries as follows:

- **The Department of Immigration, Ministry of Labour and Immigration** provides 20 Immigration Officers to manage the Centre, the raw material for the food, basic non-prescription drugs and Refugee Kits which include toiletries, toothbrush and toothpaste, blankets, etc.;
- **The Ministry of Social Services and Community Development** provides cooks to prepare the food, assistance with the sorting of clothing from the Department of Immigration, and other services;
- **The Ministry of Health** conducts regular Health Clinics and provides free prescription medication; and
- **The Royal Bahamas Defence Force** provides electricity and water and 40 Officers for security.

"The Department of Immigration, Ministry of Labour and Immigration, provides a rotation of twenty (20) Immigration Officers to manage the Centre. Persons held in the facility receive three meals daily. The facility is equipped with electricity and running water. Four buildings are used as dormitories, each equipped with approximately 60 beds and with bathing and laundry facilities at the rear. Regular visits are allowed twice a week during scheduled hours; however, special consideration may be given to international visitors who arrive during unscheduled visitation periods to accommodate their timetable.

"The overall cost to these ministries accounts for approximately 5-6 million dollars per annum, with an additional 1 million plus for repatriation expenses. These figures do not include the significant financial outlay for fuel costs to patrol the extensive coastline of The Bahamas Archipelago, nor the salaries of support agencies such as the Consular Division of the Ministry of Foreign Affairs and the legal services of the Attorney-General's Office. In addition, for the current fiscal year 2003-2004, the Government of The Bahamas has already earmarked in the budget of the Royal Bahamas Defence Force $186,230.00 for the construction of a Detention Centre on the island of Great Inagua. Additional funding is anticipated.

"The management of illegal immigration has had a profound effect on the budgets of all the agencies concerned. It practically depletes most of the financial resources of some agencies and places a huge burden on the already limited available human resources. It is expected that there will continue to be a dramatic increase in the illegal migration population, with attendant costs to the mentioned agencies. There appears to be no end in sight for the diminishing of the costs associated with the processing of illegal immigrants. The situation has become exacerbated to the point where assistance is being sought from other Governments and international organizations such as the IOM, and there has had to be the imposition of visas for countries posing particular problems in this regard.

"Concerning paragraph 21 the issue of racial reconciliation was also addressed during the dialogue; however, The Bahamas wishes to repeat the information given at that time, namely that The Bahamas feels that this has been an ongoing process since the advent of majority rule in 1967 and that great strides have been made in this regard. The One Bahamas Celebration is a wonderful demonstration of this process, encompassing communities throughout the entire archipelago, and involves Bahamians of all races. In this context, the delegation also provided information regarding the International Cultural Weekend held every October in which representatives of over 50 nationalities residing in The Bahamas display their art, culture, food and traditions. The event has been a resounding success since its inception as one of the national initiatives of The Bahamas to commemorate the 50th anniversary of the United Nations, and is enjoyed by Bahamians of all walks of life. Our racial reconciliation activities have been ongoing for some time and will continue, as appropriate, within our cultural context.

"Concerning paragraph 22 The Bahamas feels that the issue of the absence of decided court cases in The Bahamas regarding racial discrimination was addressed rather exhaustively during the dialogue. In the interest of the fullness of the record, however, the information provided to the Committee will be repeated.

"No racial discrimination case has yet been brought before the court because no application has been filed and no allegations made. As indicated during the course of the dialogue, while there is no specific legislation in place prohibiting racial discrimination per se, there are prohibitions on all forms of discrimination entrenched in The Bahamas' Constitution. Chapter III of the Constitution, articles 15-27, spells out the entrenched Fundamental Rights and Freedoms of the Individual in The Bahamas, which are applicable to all persons in The Bahamas, regardless of race and ethnicity. The Constitution guarantees to all the right to life, liberty, security of person and protection of law; freedom of conscience, expression, association and assembly; and protection of privacy of the home and other property. Articles 15 and 26 explicitly prohibit the promulgation of laws that are discriminatory either in themselves or in effect. In addition to these Constitutional provisions, there are some cases of specific legislation that impose prohibitions on discrimination within specific fields, such as employment and extradition. In the case of employment, for example, the Employment Act prohibits discrimination on the basis of race, creed, sex, marital status, political opinion, age or HIV/AIDS. Accordingly, it is the view of The Bahamas Government that there is a sufficient legal framework in place to facilitate the pursuit of legal matters in this area.

"With respect to the issue of awareness by the population of their rights, and their confidence in the appropriate authorities, officers of the Royal Bahamas Police Force, as part of its Community Policing Program, during their walk-abouts, inform members of the community of their rights to report any infraction that has been committed against them, either by the Police or any member of the community. The Police Force has also employed many persons of Haitian descent, with a view to enabling Haitians to feel comfortable in reporting any acts that may have been committed against them to these officers without fear of reprisal.

"These programmes will continue, so as to ensure that all persons feel that they have recourse to the courts and any other institution of redress, should allegations of racial discrimination arise.

"The Bahamas finds the Committee's insistence on an investigation somewhat unusual given that the delegation addressed this issue rather exhaustively during the dialogue and given that it is a request for an investigation into something that has no form to date. As indicated above, every effort is made to ensure that all persons in The Bahamas are aware of their rights and have confidence in the authorities' ability to promote and protect those rights. The Bahamas would also respectfully suggest that it would be very difficult, if not impossible, to verify the reasons behind an absence of complaints, as it would be tantamount to attempting to prove a negative. However, as indicated during the dialogue and in the reports, the authorities in The Bahamas, particularly the Courts, are willing and able to hear such cases, if any cases are brought.

"Concerning paragraph 24 with respect to the issue of providing information to the general public about the substance of the Convention, it will be recalled that The Bahamas delegation, during its dialogue with the Committee, noted that the Convention has not been given a high profile in The Bahamas.

"It will also be recalled, however, that the delegation welcomed the opportunity posed by the occasion of the presentation and consideration of this report to sensitize the Bahamian public as to the provisions of the Convention and its application in The Bahamas."

Sixth and seventh periodic reports of Mauritania

The following comments were sent on 7 September 2004 by the Permanent Representative of Mauritania to the United Nations Office at Geneva concerning the concluding observations adopted by the Committee following the consideration of the sixth and seventh periodic reports submitted by the State party:*

"The Mauritanian Government is surprised by the divergence between the fruitful interactive dialogue between its delegation at the 1652nd and 1653rd meetings, held on 6 and 9 August 2004, and the concluding observations adopted by the Committee. The statement made in public by the Rapporteur at the end of the 1653rd meeting regarding the conclusions presented, in a balanced manner, the positive aspects acknowledged by the members of the Committee who took the floor, and the concerns raised. However, these balanced conclusions are not reflected in the concluding observations adopted by the Committee.

"The inquisitorial questionnaire transmitted to the Government on 22 July, 11 days before the opening of the session, by the Rapporteur appointed in March, heralded the approach envisaged. Nevertheless, the Government chose to reply, in a spirit of cooperation and openness welcomed by the Rapporteur. The questionnaire was essentially based on the question of slavery resolved by the Commission on Human Rights almost 20 years ago, as recalled by the Rapporteur in her introduction (1652nd meeting).

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* See paragraphs 328-357 of the present report. The comments refer to the unedited version of the concluding observations.

"The questions raised concerned only the fate of the descendants of former Arab slaves, as if slavery had been restricted to Arabs and not a phenomenon that, at various times, affected all the components of the Mauritanian people, and, in a broader sense, the entire Sudano-Sahelian region.

"Mauritania is the cradle of great civilizations whose influence transcends its current borders; slavery was practised, throughout the region, and has not left greater stigma than elsewhere. There are no longer any 'slavery-like practices' in Mauritania, and the so-called question of slavery concerns only a handful of people for whom it is a business. But neither these individuals nor anyone else can cite the slightest evidence to corroborate the allegations on which the Committee has based its concluding observations.

"All Mauritanians are of course linked to their early origins and each is in effect a descendant of warriors, wise men, story tellers, blacksmiths, or slaves. These social categories existed, with differences of detail, in the four components of the Mauritanian people:

Arab community: nobles (*Le'arab* and *Zouaya*), blacksmiths (*Lem'almin*), story tellers, (*Igawen*), slaves (*Le'abid*);

Pulaar community: nobles (*Toroobe* and *Sebbe*), blacksmiths (*Waylube*), story tellers, (*Awlube*) and slaves (*Maccube*);

Soninke community: nobles (*Tunba Lemme* and *Modini*), blacksmiths (*Toggo*), story tellers, (*Jaari* and *Gasaru*) and slaves (*Junkuro* and *Komo*);

Wolof community: nobles (*Geer* or *Garmi*), blacksmiths (*Tegg*), story tellers (*Gewel*) and slaves (*Jaam*).

"This information is not exhaustive since there are other social categories, but, in general, these four communities were divided, in principle, into three main groups: freemen, professionals and slaves. However, today that no longer has any relevance to the rights and duties of any Mauritanian citizen, and no one can cite evidence claiming to be a victim of discrimination owing to the fact that he belongs to some former category or other. Citizens are treated without any discrimination at school, in health care, in the civil service and in other political, economic, social and cultural sectors.

"Accordingly, nothing is further from the truth than the 'reports' of discrimination 'based on descent' relayed by the Committee. It is certainly true that some individuals who descended from former feudal strata still consider themselves more noble than others and may, for example, refuse marriage on this basis. However, such attitudes cannot be considered 'slavery-like practices', and if, in general, the situation in societies with a similar or even more advanced level of economic and social development is considered, the role played today in political life, in government and in the private sector by Mauritanian citizens who are descendants of former slaves provides a model of integration and social advancement. In view of all these factual elements, the recommendations addressed to the State party at the end of paragraph 342 are redundant.

"This is also true of paragraph 343, since the Mauritanian Government has no intention of reopening past divisions or making the slightest distinction between citizens below the poverty line. Special measures were taken in the 1980s following recommendations by the expert from the Sub-Commission on Prevention of Discrimination and Protection of Minorities. These measures were cited in document E/CN.4/Sub.2/1987/23 and were recalled in the written replies to the Rapporteur's questions.

"Mauritania is the first sub-Saharan African country to have adopted an integrated poverty reduction strategy, the objectives of which were expounded on in the report. The Government will continue to make every effort to attain the ambitious targets set for 2015.

"With regard to the reference in paragraph 338 to civil society, last July the Economic and Social Council selected Mauritania as a model in this regard. Hundreds of national and non-national non-governmental organizations operate without hindrance in all areas of activity. The Lutheran World Federation is responsible for implementation of the component on the promotion of human rights and the strengthening of civil society capacities under the national good governance programme. The organizations referred to by the Committee have not been recognized simply because they are constituted on a restricted basis. Article 2 (e) enjoins States parties to promote integration and 'to discourage anything which tends to strengthen racial division'.

"Order No. 091/024 of 25 July 1991, referred to in paragraph 340, is in accordance with article 4 of the Convention. It prohibits any political party from 'identifying itself with a race, an ethnic group, a region, a tribe, (one sex) or a brotherhood'. This provision is of particular importance in young democracies and, at a time when several countries are devastated by civil war, the Mauritanian State will always ensure its strict but fair implementation.

"Paragraph 341 catalogues Mauritanian citizens and creates a new category ('black Moors'). This fragmented view of Mauritanian society is reflected in paragraph 336, which questions the Arab origin of the majority of the Mauritanian people by replacing it with an ambiguous concept ('Arabic-speaking group'). It is the responsibility of the Government, on the contrary, to strengthen national cohesion and to consolidate national unity. And, as indicated in the reply to question 8, Mauritanians gain access to administrative posts on the basis of professional criteria and to political posts pursuant to free and transparent elections.

"Those who have any familiarity with the history of Mauritania will know that education was available first in the southern regions which are home to the Pulaar, Soninke and Wolof national minorities. Early on Arabs rejected the colonial school system and sent, under duress, only those children from the lowest social strata. This irrefutable historical fact contributed to the advancement of national minorities and formerly disadvantaged strata.

"With regard to the 'castes' (observations, para. 342), the social system that prevailed in pre-colonial black African societies was characterized by a strict hierarchy, but one that was progressively eroded under the influence of a range of factors, including education, destruction of the traditional economy, and the emergence of a new production system. The Arab community in Mauritania is the only one in the Arab world to have adopted this social stratification, as the result of its interbreeding and overlapping with black African communities. This 'caste system' is cited to support the allegation that 'slavery-like practices' persist, and to revert to the question of Order No. 81-234 of 9 November 1981 abolishing slavery, and to the fact that it was not followed by implementing decrees. Reply No. 13 provides the necessary clarification of this 'concern'. The order in question was not strictly necessary in legal terms but was intended to mark the acceptance by practitioners of Muslim law of the abolition of slavery previously enacted under positive law. At the time all these basic legal texts were reviewed and adapted to Islamic law. Act No. 2003-025 of 17 July 2003 on suppression of trafficking in persons and the Labour Code (arts. 5 and 435) completed the criminal legislation penalizing forced labour and slavery-like practices. Accordingly, the law is clear, and the courts have always rigorously implemented it, including in matters relating to inheritance (reply No. 17). In fact, article 15 of the Constitution clearly guarantees this right and there are no cases where people 'appropriate the property of … former slaves when they die'. The African Commission on Human and Peoples' Rights has just dismissed allegations by non-governmental organizations on which the Committee based its conclusions in the case put forward by these organizations for some years (Bah Ould Rabah/Mauritania case).

"Replies to questions Nos. 8, 9, 10, 11, 12, 13, 15, 16, 17 and 27 in the questionnaire largely cover the allegations of 'slavery-like practices', which appear as a leitmotif in both the questionnaire and the concluding observations. This being so, and contrary to the assurances given by the Rapporteur in his introduction (1652nd meeting) to the effect that neither the Rapporteur nor the Committee questioned the conclusions of the fact-finding mission conducted in 1984 by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the concluding observations repeat baseless allegations and thus seek to cast doubt on those conclusions. However the mission did not confine itself to reading and repeating allegations that reached Geneva. The mission travelled to Mauritania, where it freely conducted its enquiries (E/CN.4/Sub.2/1984/23).

"With regard to the question of 'Mauritanian refugees' (para. 344) the written reply by the Government is clear: today no Mauritanian can be described as a refugee under the relevant conventions. The Government notes that this issue was raised during consideration of its initial report in 1999, but the Committee did not reflect this in its concluding observations.

"The 'concerns' raised in paragraphs 346 and 347 relate to areas in which Mauritania is playing a leading role. In fact UNFPA and UNICEF consider its experience a model in implementing the recommendations of the International Conference on Population and Development in efforts to combat female genital mutilation.

"With regard to the Pulaar, Soninke and Wolof languages, the countries in West Africa where these are the majority languages have not made any more progress than Mauritania. The changes made in 1999 in the context of education reform have allowed lessons to be drawn from 20 years' experience, and the Government has in fact responded to the 'expectations' of the population groups concerned, contrary to the allegation in paragraph 348.

"Paragraph 349 leaves no doubt as to the fallacious nature of the sources on which the Committee has based its concerns, and offers proof that these are nothing more than a set of wild allegations. In fact the Committee recommends that the State party maintain a language which is not spoken in Mauritania, with a 'community concerned' that simply does not exist.

"All these considerations lead the Mauritanian Government to question the methodology followed by the Committee in considering its report:

> A public debate, open, fruitful and frank, during which members, in particular the Rapporteur, praised the efforts and progress made by the State party;
>
> A private meeting following which conclusions based on fallacious allegations are adopted;
>
> Certain 'concerns', such as the question of inheritance, were not even raised in the discussions;
>
> Other 'concerns', including the question of 'refugees', were raised by one member only.

"The Committee should first be consistent by taking account of its earlier concluding observations, and, where the situation in a State party has on the whole, improved each review is supposed to note the progress made. In the case of Mauritania this logic has not prevailed, since, despite the progress made over the past five years in the legal, political, economic, and social spheres, progress summarized in the delegation's introduction, certain conclusions adopted contradict those adopted in 1999, whereas others refer to 'concerns' going back 10 years but not commented on at the time of the Committee's consideration of the previous report. The Rapporteur acknowledged this progress in his introduction, stressing the favourable developments 'in a context of consolidated stability and appreciable economic and social progress'. This judgement is far from being reflected in the concluding observations, which are more of an indictment than general suggestions and recommendations based on consideration of the report and information received from the State party. The Committee must, rather, adopt a constructive approach and monitor progress in societies, and may not on each occasion revert to questions debated at length in the past and resolved, either by the Committee or by other competent mechanisms. It must also adopt conclusions that reflect its public deliberations, and the contribution and analysis of all its members, not the personal views of one member. These conditions are essential to the establishment of a climate of confidence in dialogue with any State party. The final remarks made on 9 August by

the Rapporteur on the conclusion of the Committee's consideration of the report of Mauritania had left the Government with the impression that such a climate existed with regard to its situation. This statement faithfully reflected the Committee's public deliberations. But the concluding observations were different, giving the impression that there were two parallel and totally disconnected processes involved. The Mauritanian Government deeply regrets this development and expresses its concern at this divergence. However, that does not in any way undermine its commitment to the International Convention on the Elimination of All Forms of Racial Discrimination. The principles of non-discrimination and equality constitute the basis of Islam, the religion of the Mauritanian people, and are enshrined in the Constitution and basic legal instruments of Mauritania. They also constitute the basis for the Government's commitment vis-à-vis its people on behalf of all its citizens, without distinction as to origin, race, sex or social status."

Annex VII

LIST OF DOCUMENTS ISSUED FOR THE SIXTY-FOURTH AND SIXTY-FIFTH SESSIONS OF THE COMMITTEE*

CERD/C/456 and Add.1	Provisional agenda and annotations of the sixty-fourth session of the Committee
CERD/C/457	Submission of reports by States parties under article 9, paragraph 1, of the Convention for the sixty-fourth session of the Committee
CERD/C/477	Provisional agenda and annotations of the sixty-fifth session of the Committee
CERD/C/478	Submission of reports by States parties under article 9, paragraph 1, of the Convention for the sixty-fifth session of the Committee
CERD/C/479	Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other Territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention
CERD/C/SR.1613-1642	Summary records of the sixty-fourth session of the Committee
CERD/C/SR.1643-1672	Summary records of the sixty-fifth session of the Committee
CERD/C/64/CO/1	Concluding observations of the Committee on the Elimination of Racial Discrimination - Bahamas
CERD/C/64/CO/2	Concluding observations of the Committee on the Elimination of Racial Discrimination - Brazil
CERD/C/64/CO/3	Concluding observations of the Committee on the Elimination of Racial Discrimination - Lebanon
CERD/C/64/CO/4	Concluding observations of the Committee on the Elimination of Racial Discrimination - Libyan Arab Jamahiriya

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* This list only concerns documents issued for general distribution.

CERD/C/64/CO/5	Concluding observations of the Committee on the Elimination of Racial Discrimination - Nepal
CERD/C/64/CO/6	Concluding observations of the Committee on the Elimination of Racial Discrimination - Spain
CERD/C/64/CO/7	Concluding observations of the Committee on the Elimination of Racial Discrimination - The Netherlands
CERD/C/64/CO/8	Concluding observations of the Committee on the Elimination of Racial Discrimination - Sweden
CERD/C/64/CO/9	Concluding observations of the Committee on the Elimination of Racial Discrimination - Suriname
CERD/C/64/Dec.1	Decisions of the Committee on the Elimination of Racial Discrimination - Guyana
CERD/C/65/CO/1	Concluding observations of the Committee on the Elimination of Racial Discrimination - Argentina
CERD/C/65/CO/2	Concluding observations of the Committee on the Elimination of Racial Discrimination - Belarus
CERD/C/65/CO/3	Concluding observations of the Committee on the Elimination of Racial Discrimination - Kazakhstan
CERD/C/65/CO/4	Concluding observations of the Committee on the Elimination of Racial Discrimination - Madagascar
CERD/C/65/CO/5	Concluding observations of the Committee on the Elimination of Racial Discrimination - Mauritania
CERD/C/65/CO/6	Concluding observations of the Committee on the Elimination of Racial Discrimination - Portugal
CERD/C/65/CO/7	Concluding observations of the Committee on the Elimination of Racial Discrimination - Slovakia
CERD/C/65/CO/8	Concluding observations of the Committee on the Elimination of Racial Discrimination - Tajikistan
CERD/C/65/Dec.1	Decisions of the Committee on the Elimination of Racial Discrimination - Darfur
CERD/C/65/Dec.2	Decisions of the Committee on the Elimination of Racial Discrimination - Israel

CERD/C/428/Add.1	Fifth to fourteenth periodic reports of Bahamas
CERD/C/431/Add.8	Fourteenth to seventeenth periodic reports of Brazil
CERD/C/383/Add.2	Fourteenth and fifteenth periodic reports of Lebanon
CERD/C/431/Add.5	Fifteenth to seventeenth periodic reports of the Libyan Arab Jamahiriya
CERD/C/452/Add.2	Fifteenth and sixteenth periodic reports of Nepal
CERD/C/452/Add.3	Fifteenth and sixteenth periodic reports of the Netherlands
CERD/C/431/Add.7	Sixteenth and seventeenth periodic reports of Spain
CERD/C/446/Add.1	Initial to tenth periodic reports of Suriname
CERD/C/452/Add.4	Fifteenth and sixteenth periodic reports of Sweden
CERD/C/476/Add.2	Sixteenth to eighteenth periodic reports of Argentina
CERD/C/431/Add.9	Fifteenth to seventeenth periodic reports of Belarus
CERD/C/439/Add.2	Initial to third periodic reports of Kazakhstan
CERD/C/476/Add.1	Tenth to eighteenth periodic reports of Madagascar
CERD/C/421/Add.1	Sixth and seventh periodic reports of Mauritania
CERD/C/447/Add.1	Tenth and eleventh periodic reports of Portugal
CERD/C/419/Add.2	Fourth and fifth periodic reports of Slovakia
CERD/C/463/Add.1	Initial to fifth periodic reports of Tajikistan

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